

THE  
 BILL  
 ENTITLED  
 An Act for the better regulating the  
 Trade and Commerce of the Colonies  
 WITH  
 THE  
 AMERICAN STATES  
 AND  
 THE  
 REPUBLICS  
 OF THE  
 CONTINENT  
 RELATIVE  
 TO  
 THE  
 PROCEEDINGS  
 AS  
 ALSO  
 THE  
 REPORTS  
 OF THE  
 COMMISSIONERS  
 OF THE  
 CUSTOMS  
 OF THE  
 PORTS  
 OF  
 NEW-YORK  
 AND  
 PHILADELPHIA  
 IN  
 THE  
 YEAR  
 1794  
 PRINTED BY  
 G. B. LEECH  
 AT  
 THE  
 SIGN OF THE  
 THREE  
 KINGDOMS  
 IN  
 THE  
 CITY  
 OF  
 LONDON



Printed for the Board of Commissioners  
 of the Customs, and for the  
 Board of Trade, in the Year  
 1794



# THE BILL

For Preventing

*Occasional Conformity.*

**A**S nothing is more Contrary to the Profession of the Christian Religion, and particularly to the Doctrine of the Church of England, than Persecution for Conscience only; in due Consideration whereof an Act passed in the First Year of the Reign of the late King William and Queen Mary *\*of glorious Memory*, Entituled, An Act for exempting Their Majesty's Protestant Subjects dissenting from the Church of England, from the Penalties of certain Laws: which Act ought inviolably to be observed, and Ease given to all Consciences truly scrupulous. *\* But* nevertheless whereas *\*the Laws do provide, That every Person to be admitted into any Office or Employment should be conformable to the Church as it is by Law established, by enacting, That every such Person so to be admitted should receive the Sacrament of the Lord's Supper according to the Rites and Usage of the Church of England; yet, several Persons, dissenting from the Church as it is by Law established, do joyn with the Members thereof in receiving the Sacrament of the Lord's Supper, to qualifie themselves to have and enjoy*  
*such*

Note, That all that which is Printed in a Different Character, was Amended by the Lords, either as added, or left out of the Bill, according as by the following Remarks appear.

The words (*\*of glorious Memory*) was added by the Lords, and agreed to by the Commons.

The word (*\*But*) was added by the Lords, and

*\*All this left out by the Lords; to which the Commons disagreed, and upon which the Lords insisted, and adhered, and so did the Commons to their Disagreement.*



*such* Offices and Employments, and do afterwards resort to Conventicles or Meetings for the Exercise of Religion in other manner than according to the Liturgy and Practice of the Church of England, which is contrary to the Intent and Meaning of the Laws already made. Be it therefore Enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal and Commons in Parliament assembled, and by Authority of the same, That if any Person or Persons, after the First day of March which shall be in the year of our Lord 1702, either Peers or Commoners, who have or shall have any Office or Offices Civil or Military, or receive any Pay, Salary, Fee or Wages, by reason of any Patent or Grant from Her Majesty, or shall have any Command or Place of Trust from or under Her Majesty, or from any of Her Majesty's Predecessors, or by Her or Their Authority, or by Authority derived from Her or them, within the Kingdom of England, Dominion of Wales, or Town of Berwick upon Tweed, or in Her Majesty's Navy, or in the several Islands of Jersey and Guernsey, or shall be admitted into any Service or Employment in Her Majesty's Household or Family; *\*or if any Mayor, Alderman, Recorder, Bayliff, Town-Clerk, Common Council Man, or other Person bearing any Office of Magistracy, or Place of Trust, or other Employment relating to or concerning the Government of the respective Cities, Corporations, Boroughs, Cinque Ports and their Members, and other Port Towns within the Kingdom of England, Dominion of Wales and Town of Berwick upon Tweed, who by the Laws are obliged to receive the Sacrament of the Lord's Supper according*

The word (*\*such*) was left out by the Lords; to which the Commons disagreed, and upon which the Lords insisted, and adhered, and so did the Commons, to their Disagreement.

*\*All this was (at first) left out by the Lords: But afterwards upon the Free Conference, they agreed the same should stand part of the Bill.*



King to the Rites and Usage of the  
 Church of England, shall at any  
 time after their Admission into  
 their respective Offices or Employ-  
 ments, or after having such Grant  
 as aforesaid, during his or their  
 continuance in such Office or Of-  
 fices, Employment or Employ-  
 ments, or the Enjoyment of any  
 Profit or Advantage from the same,  
 \*shall \*knowingly or willingly re-  
 sort to or be present at any Con-  
 venticle, Assembly or Meeting,  
 under Colour or Pretence of any  
 Exercise of Religion, in other man-  
 ner than according to the Litu-  
 rgy and Practice of the Church of  
 England, in any place within the  
 Kingdom of England, Dominion  
 of Wales and Town of Berwick  
 upon Tweed, at which Conven-  
 ticle, Assembly or Meeting there  
 shall be Five Persons or more as-  
 sembled together over and besides  
 those of the same Household, if it  
 be in any House where there is a  
 Family inhabiting, or if it be in  
 an House or Place where there is  
 no Family inhabiting; then where  
 any Five Persons or more  
 are so assembled as aforesaid, \*or  
 shall knowingly and willingly be pre-  
 sent at any such Meeting in such  
 House or Place as aforesaid, altho'  
 the Liturgy be there used, and in  
 case Her Majesty, (whom God long  
 preserve,) Katharine the Queen  
 Dowager, and the Princess Sophia, or  
 such others as shall from time to time  
 be lawfully appointed to be prayed for,  
 shall not there be prayed for (viz.  
 in pursuance of the Act passed in the  
 First Year of King William and  
 Queen Mary, Entituled, An Act  
 declaring the Rights and Liberties  
 of the Subject, and settling the Suc-  
 cession of the Crown; and the Act  
 passed in the Twelfth and Thirteenth  
 of King William the Third, Enti-  
 tuled, An Act for the further Limi-  
 tation of the Crown, and better secu-  
 ring the Rights and Liberties of the  
 Subject &

The Lords left out (\*shall) and  
 added (\*knowingly or willingly);  
 to which the Commons agreed.

\*The Lords added part of this,  
 by an Amendment, and the  
 Commons made an Amendment  
 to the Lords Amendment; to  
 which the Lords agreed with a  
 further Amendment, to which  
 the Commons agreed; so this  
 Clause was agreed by both  
 Houses, as so Amended.



Subject) in express Words according to the Liturgy of the Church of England, shall Forfeit the Sum of \* One hundred Pounds, and Five Pounds for every Day that any such Person or Persons shall continue in the Execution of such Office or Employment, after he or they shall have resorted to or been present at any such Conventicle, Assembly or Meeting as aforesaid, to be recovered by him or them that shall sue for the same by any Action of Debt, Bill, Plaint or Information, in any of Her Majesty's Courts at Westminster, wherein no Essoigne, Protection or Wager of Law shall be allowed, nor more than One Imparlance. And be it further Enacted, That every Person, Convicted in any Action to be brought as aforesaid, or upon any Information, Presentment or Indictment in any of Her Majesty's Courts at Westminster, or at the Assizes, shall be disabled from thenceforth to hold such Office or Offices, Employment or Employments, or to receive any Profit or Advantage by reason of them, or of any Grant as aforesaid, \* and shall be adjudged incapable to bear any Office or Employment whatsoever, within the Kingdom of England, Dominion of Wales, or Town of Berwick upon Tweed. Provided always, and be it further Enacted by the Authority aforesaid, That if any Person or Persons who shall have been Convicted, as aforesaid, and thereby made incapable to hold any Office or Employment, shall after such Conviction conform to the Church of England for the space of One Year, without having been present at any Conventicle, Assembly, or Meeting, as aforesaid, and receive the Sacrament of the Lord's Supper at least Three times in the Year, every such Person or Persons shall be capable of a Grant of any Office

The Lords left out this, and inserted as followeth, (\* Twenty Pounds to be divided into Three Parts; whereof One third part to the Queen, One other to the Poor of the Parish where the Offence shall be committed, and One third part to the Informer.) To which the Commons disagreed; but the Lords insisted, and adhered, and so did the Commons, to their Disagreement.

\* The Lords left out all this that follows, to the end of the Bill; to which the Commons disagreed, and the Lords insisted, and adhered, and so did the Commons, to their Disagreement.



Office or Employment, or of being elected into, or holding of any the Offices or Employments aforesaid. Provided also, and be it Enacted, That every Person so Convicted, and afterwards conforming in manner as aforesaid, shall, at the next Term after his Admission into any such Office or Employment, make Oath in writing in any of Her Majesty's Courts at Westminster in publick and open Court, between the Hours of Nine of the Clock and Twelve in the Forenoon, or at the next Quarter Sessions for that County or Place where he shall reside, that he has conformed to the Church of England for the space of One Year before such his Admission, without having been present at any Conventicle, Assembly, or Meeting, as aforesaid, and that he has received the Sacrament of the Lord's Supper at least Three times in the Year, which Oath shall be there Enrolled, and kept upon Record. Provided also, and be it further Enacted by the Authority aforesaid, That if any Person after such his Admission, as aforesaid, into any Office or Employment, shall a Second time offend in manner aforesaid, and shall be thereof lawfully Convicted, he shall for such Offence incur double the Penalties before mentioned, to be recovered in manner as aforesaid, and shall forfeit such Office or Employment, and shall not be capable of having any Office or Employment, until he shall have Conformed for the space of Three Years, in manner aforesaid, whereof Oath shall be made in Writing in one of Her Majesty's Courts at Westminster, or at the Quarter Sessions of the County where he resides.

Here the Bill ended, as it went from the Commons to the Lords, with the Lords Amendments aforesaid. And the Lords added these Clauses following.

To

C

Clause



To this the Commons agreed.

Clause A.

Provided, That no Person shall suffer any Punishment for any Offence committed against this Act, unless Oath be made of such Offence before some Judge, or Justice of the Peace, (who is hereby Empowered and Required to take the said Oath) within Ten Days after the said Offence committed, and unless the said Offender be prosecuted for the same within Three Months after the said Offence committed; nor shall any Person be Convicted for any such Offence, unless upon the Oaths of Two Credible Witnesses at the least.

To this the Commons disagreed, and upon which the Lords insisted and adhered, and so did the Commons to their Disagreement.

Clause B.

Provided always, and be it Enacted, That from and after the said First Day of March, no Protestant Dissenter shall be Compelled or Compellable to Take, Serve, Hold, or Bear any Office or Place whatsoever, for the Taking, Serving, or Holding whereof he cannot be duly Qualified by Law without receiving the Holy Sacrament according to the Usage of the Church of England, and also making and subscribing the Declaration mentioned in the Statute made in the Twenty fifth of King Charles the Second, Entituled, An Act for preventing Dangers which may happen from Popish Recusants, any Statute, Law, Usage, or other Thing to the contrary notwithstanding.

To this the Commons disagreed, and upon which the Lords insisted and adhered, and so did the Commons to their Disagreement.

Clause C.

Provided nevertheless, That this Act shall not extend to the University Churches in the Universities of this Realm, or either of them, when or at such times as any Sermon or Lecture is Preached or Read in the same Churches, or any of them, for or as the Publick University Sermon or Lecture, but that the same Sermons and Lectures may be Preached or Read in such sort or manner as the same have been heretofore Preached

To



*Preached or Read, this Act or any thing herein contained to the contrary in any wise notwithstanding.*

To this the Commons disagreed, and upon which the Lords insisted and adhered, and so did the Commons to their Disagreement.

Clause D.

*Provided, That no Person shall incur any the Penalties in this Act by resorting to or being present at the Religious Exercises used in the Dutch and French Languages in Churches established in this Realm in the Reigns of King Edward the Sixth, or of Queen Elizabeth, or of any other King or Queen of this Realm.*

To this the Commons disagreed, and upon which the Lords insisted and adhered, and so did the Commons to their Disagreement.

Clause E.

*Provided always, and be it Enacted by the Authority aforesaid, That nothing in this Act shall extend, or be construed to extend to any Governor or Governors of any Hospital or Hospitals, or to any Assistants of any Corporation or Corporations, Workhouse or Workhouses, Constituted, Erected, or Employed for the Relief and Setting of the Poor on Work, and for Punishing of Vagrants and Beggars: All which said Persons, and every of them, shall be and are hereby exempted from all the Penalties mentioned in this Act, and are hereby adjudged and declared not to be subject or liable to any of the Penalties or Forfeitures mentioned in one Act of Parliament made in the Five and twentieth Year of the Reign of King Charles the Second, for preventing Dangers which may happen from Popish Recusants, for or by reason of any of the aforesaid Offices, Places, or Employments.*



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*The* PROCEEDINGS of the House of Commons in relation to the said Bill.

*Sabbati 28 die Novembris, 1702.*

**A**N Engrossed Bill for preventing Occasional Conformity, was (according to Order) read the Third time; and an Amendment was made by the House to the Bill.

*Resolved,* That the Bill do Pass.

*Ordered,* That Mr. Bromley do carry the Bill to the Lords, and desire their Concurrence thereunto.

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*Mercurii 9 die Decembris, 1702.*

**A** Message from the Lords by Sir Robert Legard and Doctor Edisbury, That the Lords have agreed to the Bill, Entituled, *An Act for preventing Occasional Conformity*, with several Amendments: To which they desire the Concurrence of this House.

And the said Amendments were read the First time; and the First Amendment was read a Second time.

*Ordered,* That the further Consideration of the said Amendments be adjourned till to morrow Morning.

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*Jovis 10 die Decembris, 1702.*

**T**HE House resumed the Adjourned Consideration of the Amendments made by the Lords to the Bill, Entituled, *An Act for preventing Occasional Conformity*; And the said Amendments being again severally read, some of them were agreed, and others disagreed, unto by the House; And the Consideration of one of them was postponed: Which being afterwards resumed;

*Ordered,* That a Committee be appointed to consider of the said Amendment, and prepare such Amendments as are proper to be made to it: And a Committee was appointed accordingly.

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*Veneris 11 die Decembris, 1702.*

*Ordered,*

**T**HAT the Report from the Committee, to whom it was referred, to consider of the Amendment made by the Lords to the Bill, Entituled, *An Act for preventing Occasional Conformity*, and to prepare what Amendments were proper to be made to it, be made to morrow Morning.

*Sab-*



*Sabbati 12 die Decembris, 1702.*

**M**R. Bromley (according to Order) reported from the Committee, to whom it was referred to consider of an Amendment made by the Lords to the Bill, Entituled, *An Act for preventing Occasional Conformity*, and to prepare such Amendments as they conceived proper to be made thereunto, That they had considered thereof, and made several Amendments thereunto; which they had directed him to report to the House, which he read in his Place, and afterwards delivered in at the Table, where the same were read, and agreed unto by the House: And then the said Amendment, so amended, was agreed unto by the House.

*Ordered*, That the said Committee do draw up Reasons to be offered to the Lords at a Conference, for disagreeing to such of the Amendments made by their Lordships, as this House hath disagreed unto.

*Martis 15 die Decembris, 1702.*

**M**R. Bromley reported from the Committee, to whom it was referred to draw up Reasons to be offered to the Lords at a Conference, for disagreeing with their Lordships to some of the Amendments made by them to the Bill, Entituled, *An Act for preventing Occasional Conformity*, That they had drawn up the same accordingly; which they had directed him to report to the House, which he read in his Place, and afterwards delivered in at the Table, where the same were read, and agreed unto by the House, which are as follow:

**T**O the First Amendment made by your Lordships to the Bill, Entituled, *An Act for preventing Occasional Conformity*, in Skin the First, Line the Sixth, the Commons do agree.

To the Second and Third Amendments, Line the Tenth and Eleventh, the Commons disagree.

First, because that the Recital, That every Person to be admitted into any Office or Employment, should be Conformable to the Church, as it is by Law Established, is confined to such Laws as Enact, That every such Person shall receive the Sacrament of the Lord's Supper according to the Rites and Usage of the Church of England.

Secondly, because the Corporation and the Test Acts, which have been frequently evaded, and are by this Bill intended to be made Effectual, do provide, That all Persons to be admitted into any Office or Employment in pursuance of those Acts, should receive the Sacrament of the Lord's Supper, according to the Rites and Usage of the Church of England; and all Persons under such Obligation to receive the Sacrament; the Commons conceive are obliged to be Conformable to the Church, as it is by Law Established.



To the Fourth Amendment, Line the Twentieth, the Commons disagree ;  
Because it depends upon the former.

To the Fifth Amendment, Skin the Second, Line the Fourth, the Commons disagree ;

Because your Lordships admit this Bill to be reasonable, as to the Officers and Persons described in the former part of this Clause ; And the Commons see no Reason why this Bill should not equally extend to the Persons and Officers described in the latter part thereof, left out by your Lordships in this Amendment.

Secondly, your Lordships leaving out in this Amendment these Words, viz. (Who by the Laws are obliged to receive the Sacrament of the Lord's Supper according to the Rites and Usage of the Church of England) may countenance an Opinion, That the Persons described in the Words left out by your Lordships, are not obliged to receive the Sacrament.

Thirdly, those Words do equally refer to the Persons described in the former part of this Clause, to which your Lordships have agreed, as to the Persons described in your Lordships Amendment. And the Commons take it to be very Evident, That every Person described in this Clause, as sent up to your Lordships, is obliged to receive the Sacrament of the Lord's Supper according to the Rites and Usage of the Church of England.

To the Sixth Amendment, Line the Twentieth, the Commons do agree.

To the Seventh Amendment, Line Thirty three, the Commons have agreed, with some Amendments.

To the Eighth Amendment, Line Thirty four, the Commons have disagreed.

Because (tho' many other Reasons might be offered, from which the Commons can never depart, yet at this time they think it sufficient to say) That the Penalties left out by your Lordships in this Amendment are reasonable, and no more than what are necessary to make this Bill Effectual.

To the Ninth Amendment, Skin the Third, Line the Ninth, the Commons disagree ;

Because they think the Penalty of Incapacity, as qualified by the subsequent Proviso, is a proper Punishment for this Offence. And the Commons conceive it necessary to encrease the Penalty upon a Second Offence, as has been practised in many other Cases.

To Clause (A.) the Commons agree.

To Clause (B.) the Commons disagree ;

Because as this Bill takes away no one Privilege that the Dissenters have by Law, so the Commons cannot think it fit to give them any New Privilege by it.

To Clause (C.) the Commons disagree ;

Because the Commons conceive there is no occasion for it.

To Clause (D.) the Commons disagree ;

Because the Commons think it necessary that the Bill should equally extend to all Persons before recited, as obliged to receive the Sacrament, and see no Reason for the Distinction made thereby.

To Clause (E.) the Commons disagree.

Because if such Persons are obliged to receive the Sacrament, there is no reason to exempt them out of this Bill ; and if they are not obliged, the Clause is unnecessary.

Resolved,



*Resolved*, That a Conference be desired with the Lords, upon the subject Matter of the said Amendments.

*Ordered*, That Mr. Grevill do go to the Lords, and desire the said Conference.

*Jovis 17 die Decembris, 1702.*

MR. Grevill reported, That he (according to Order) having been at the Lords to desire a Conference upon the subject Matter of the Amendments made by their Lordships to the Bill, Entituled, *An Act for preventing Occasional Conformity*, the Lords do agree to a Conference presently in the *Painted Chamber*.

*Ordered*, That the Committee, who were appointed to draw up the Reasons, do manage the Conference: And the Managers went to the Conference.

And being returned;

Mr. Bromley reported, That they had been at the Conference, and had given the Lords the Reasons for disagreeing to the said Amendments, and had left the Bill and Amendments with the Lords.

*Veneris 8 die Januarii, 1702.*

A Message from the Lords by Sir Robert Legard and Doctor Edisbury, That the Lords desire a Conference with this House to morrow at Twelve a Clock in the *Painted Chamber*, upon the subject Matter of the last Conference, upon the Bill, Entituled, *An Act for preventing Occasional Conformity*.

To which the House agreed.

And the Messengers were called in again, and Mr. Speaker acquainted them therewith.

*Sabbati 9 die Januarii, 1702.*

*Ordered*,

THAT the Members who managed the last Conference with the Lords, upon the Bill, Entituled, *An Act for preventing Occasional Conformity*, do manage the Conference to be this day with the Lords.

And the Managers went to the Conference.

And being returned;

Mr. Bromley reported, That they had met the Lords at the Conference, and that the Lords do insist upon all their Amendments to the Bill, which this House hath disagreed unto; for which they gave their Reasons: And that to the Amendments which this House made to one of the Amendments made by the Lords, the



the Lords do agree, with an Amendment; to which they desire the Concurrence of this House :

And that the Lords, for such their insisting upon their Amendments, do give the Reasons following.

*THE Lords insist on their Second and Third Amendments in the Preamble of the Bill ;*

*Because the Words left out by this Amendment are introductive to the Clause left out by their Lordships in the Fifth Amendment ; Besides, as the Law now stands, there are many Offices and Employments, to which Persons may be admitted, without being under an Obligation to receive the Sacrament on that account ; and therefore they cannot agree to let a Clause stand, wherein a Matter of Fact is positively affirmed, which they take to be otherwise.*

*The Lords insist on their Fourth Amendment ;*

*Because it depends on the former.*

*The Lords insist on their Fifth Amendment ;*

*Because the Act of the 25th of King Charles the Second, called the Test Act, which has been found by Experience to have been an effectual Security against Popery, and which their Lordships are willing to enforce yet further by this Bill as to the Dissenters, is known to every Body ; And it is generally understood to what Employments it does extend ; and therefore their Lordships think it reasonable to rest there, and not to subject Men to the Penalties of this Bill, upon general or uncertain Words.*

*Secondly, The Lords do not go about to take away the Force of the Corporation Act, or to lessen any Security the Church of England has by it ; but cannot agree to extend the Penalties of this Bill to the general Words of that Act, which by Construction hereafter may serve Purposes, which are not owned at present to be the intent of this Bill.*

*The Lords insist on their Eighth Amendment, which relates to the Punishments, as they stood when the Bill was sent up from the House of Commons.*

*Whatever Regard their Lordships may have to Reasons, which the House of Commons are resolved never to depart from, they hope it will not seem strange, that they are not convinced by such Reasons as are not thought fit to be offered : But in Justification of their Amendment, their Lordships think fit to say, That as they have an undoubted Right to begin Bills with Pecuniary Penalties, and to alter and distribute Pecuniary Penalties in Bills sent up to them by the House of Commons, (which Right their Ancestors have always enjoyed, and from which their Lordships can never depart,) so they are, convinced, there never was a more just Occasion of making use of that Right, than in the present Case.*

*Secondly, They conceive the Penalty of One hundred Pounds, and Five Pounds a day for every day after the Offence committed, to be excessive ; and the whole being given to the Informer, would prove a dangerous Temptation to Perjury, and a pernicious Encouragement to Informers, the most odious sort of Persons, which would be a Blemish on the best Reign.*

*Their Lordships have given a sufficient Proof of their Willingness to make this Bill as effectual as will consist with Reason, by agreeing to such a Pecuniary Penalty, (besides the Loss of Office,) as may be a proper Encouragement to Informers to swear the Truth, though not perhaps a sufficient Temptation to go further.*



As to the Ninth Amendment;

The Commons say they disagree,

Because they think Incapacity a proper Punishment for this Offence.

The Lords insist upon their Amendment,

Because they think directly the contrary.

Secondly, Their Lordships observe, That, as the Law now stands, any Person having an Office may be present at Mass, upon much easier Terms than he might be present at a Conventicle, if the Lords should depart from this Amendment.

Thirdly, The Lords think an Englishman cannot be reduc'd to a more unhappy Condition, than to be put by Law under an Incapacity of serving his Prince and Country; and therefore nothing but a Crime of the most detestable Nature ought to put him under such a Disability: They who think the being present at a Meeting to be so high a Crime, can hardly think that a Toleration of such Meetings ought to continue long; and yet the Bill says, The Act of Toleration ought to be kept inviolable.

The Lords do not think it at all necessary to make an Encrease of Punishment for a Second Offence, because the First Offence is made Forfeiture of Office; and when the Office is gone, the Person may go to a Meeting without Breach of any Law, while the Act of Toleration continues; and if he shall afterwards get another Office, he will forfeit the same, and incur the Penalties in this Act, if he shall ever after be present at a Conventicle; which their Lordships think sufficient Punishment for a Second Offence.

The Lords agree to the Commons Amendments to their Lordships Amendment, with the Addition of the Words following after the Words [prayed <sup>skin 2. l. 33.</sup> for] viz. [in pursuance of the Act passed in the First Year of King William and Queen Mary, Entituled, An Act declaring the Rights and Liberties of the Subject, and settling the Succession of the Crown: And the Act passed in the Twelfth and Thirteenth of King William the Third, Entituled, An Act for the further Limitation of the Crown, and better securing the Rights and Liberties of the Subject.]

The Lords insist on the Clause (B.)

Because, to leave Protestant Dissenters subject to Penalties, if they do not accept of Offices, and at the same time to restrain them, if they accept of them upon the Penalties of this Bill, from doing what they think themselves obliged to in Conscience, is Persecution for Conscience, and does not agree with what is set forth in the Preamble of the Bill.

The Lords insist on Clause (C.)

Because they see no Reason why being present at Sermons or Lectures, preached or read in the Universities, and established by ancient Custom and with very good Intentions, should subject Men to the danger of incurring the Penalties of this Law; and the same Clause was thought necessary in the Act of Uniformity.

The Lords insist on Clause (D.)

Because the Foreign Reformed Churches allowed, or to be allowed, were by the Act of Uniformity exempted from the Penalties of that Law, and other Foreign Protestants who have been forced out of their own Country by a Cruel Persecution, having settled here in England, by Encouragement from Parliaments, as well as from the Crown, it would have a strange



*Appearance, if it should be thought so high an Offence for any of Her Majesty's Subjects in Office but once to be present at their way of Worship: This would give such a Discountenance to those of the same Religion abroad, as would no ways suit with Her Majesty's Character of Head of the Protestant Interest in Europe.*

*The Lords insist on Clause (E.)*

*Because the Persons concerned in it have no Profit, nor any Trust but what relates to the Poor; and without this Clause, Charitable Foundations, as Hospitals, Publick Work-Houses, and the like, would meet with Discouragement, and the Number of them might be lessened.*

*Resolved, That this House will, upon Monday Morning next, take the said Report into Consideration.*

*Lunæ 11 die Januarii, 1702.*

**T**HE House (according to Order) proceeded to take into Consideration the Report of the Conference with the Lords on Saturday last, upon the Bill, Entituled, *An Act for Preventing Occasional Conformity*; And the Amendments made thereunto, and insisted upon by the Lords, being severally read, and their Lordships Reasons for their so doing considered; and the Amendment made by the Lords to one of the Amendments made by this House being also read:

And the Question being severally put, That the House do insist upon their Disagreeing with the Lords in the said Amendments insisted upon by the Lords:

It was resolved in the Affirmative.

And the Question being put, That the House do agree with the Lords in the Amendment made by the Lords to the Amendments made by this House:

It was resolved in the Affirmative.

*Resolved, That a Free Conference be desired with the Lords, upon the subject Matter of the last Conference, upon the Bill, Entituled, An Act to prevent Occasional Conformity.*

*Ordered, That the Members who managed the last Conference, do manage the said Free Conference; and several others were added to them.*

*Mercurii 13 die Januarii, 1702.*

*Ordered,*

**T**HAT Mr. Annesley do go to the Lords, and desire a Free Conference with their Lordships, upon the subject Matter of the last Conference, upon the Bill, Entituled, *An Act for preventing Occasional Conformity.*

Mr.



Mr. *Annesley* reported, That he having (according to Order) been at the Lords to desire a Free Conference, the Lords do agree to a Free Conference, and appoint the same to be upon *Saturday* next, at One a Clock, in the *Painted Chamber*.

*Sabbati 16 die Januarii, 1702.*

**T**H E Managers appointed went to the Free Conference with the Lords, upon the Bill, Entituled, *An Act for preventing Occasional Conformity*.

And being returned,

Mr. *Bromley* reported, That there was such a Crowd in the *Painted Chamber*, that the Managers could not get to the Table.

Ordered, That a Message be sent to the Lords to acquaint their Lordships, That the Managers have been to meet the Lords at the Free Conference, but that there was such a Crowd that they cannot get to the Table to manage the same: And to desire the Lords to give Order to prevent the said Crowd.

Ordered, That the Lord Marquis of *Hartington* do go to the Lords with the said Message.

Ordered, That no Member do presume to stand within the Bar at the Table in the *Painted Chamber*, but such as are appointed Managers.

Ordered, That the Serjeant at Arms attending this House do go into the *Painted Chamber*, and Summon the Members there to attend the Service of the House immediately.

The Lord Marquis of *Hartington* reported, That he having been at the Lords (according to Order) the Lords returned Answer, That they will clear the *Painted Chamber* accordingly.

A Message from the Lords by Sir *Richard Holford* and Mr. *Pitt*, That the Lords have given Order to clear the *Painted Chamber*; but unless this House will send for their own Members from thence it will be difficult to be done.

Resolved, That an Answer be returned to the Lords, That this House hath already ordered all their Members who are in the *Painted Chamber* to attend the Service of the House immediately.

And the Messengers were called in again, and Mr. Speaker acquainted them therewith.

The Serjeant at Arms acquainted the House, That he had (according to Order) Summoned the Members in the *Painted Chamber*, but that several did still remain there.

Ordered, That the Serjeant and Clerk-Assistant do go into the *Painted Chamber*, and take the Names of such Members as shall refuse to come from thence.

And they went accordingly. And being returned:

The Serjeant acquainted the House, That all the Members were come out of the *Painted Chamber*.

The House being informed, That many Members remained in the Passage between the House and the *Painted Chamber*.

Ordered,



*Ordered*, That the Serjeant do go with the Mace into the said Passage, and Summon the Members there to attend the Service of the House immediately.

And he went accordingly.

And being returned, he acquainted the House, That all the Members are come out of the said Passage.

The House being informed, That there were several Members that yet remained in the *Lobby*, and the Rooms there.

*Ordered*, That the Members who are in the *Lobby* and Rooms adjoining do come into the House, or that their Names be taken by the Clerk.

And all the Members there did come into the House.

*Ordered*, That no Member do presume to go out of the House, till the Managers are gone to the Free Conference, and until Mr. Speaker do leave the Chair.

Then the Names of the Managers were called over; and they went to the Free Conference: And after them, the other Members (upon the Speaker's leaving of the Chair) went to the Free Conference.

And being returned,

Mr. *Bromley* reported, That they had been at the Free Conference with the Lords, which had been very long, and had left the Bill and the Amendments with the Lords.

*Veneris 29 die Januarii, 1702.*

A Message from the Lords by Sir *John Hoskyns* and Sir *Robert Le-gard*, That the Lords desire a Free Conference with this House, on *Monday* next, in the *Painted Chamber*, at One of the Clock, upon the Subject Matter of the last Free Conference concerning the Bill for preventing Occasional Conformity.

To which the House agreed.

And the Messengers were called in again, and Mr. Speaker acquainted them therewith.

And Managers were appointed for the said Free Conference.

*Lunæ 1 die Februarii, 1702.*

THE Managers appointed went to the Free Conference with the Lords, upon the Subject Matter of the last Free Conference on the Bill for preventing Occasional Conformity.

And being returned, Mr. *Bromley* reported, That they had met the Lords at the Free Conference, and that the Lords do adhere to all their Amendments, except the Amendment following, which they do agree shall stand part of the Bill, *viz.* Or if any Mayor, Alderman, Recorder, Bayliff, Town-Clerk, Common Council Man, or other Person bearing any Office of Magistracy, or Place of Trust, or other Employment relating to or concerning the Government of the respective Cities; Corpora-



*Corporations, Boroughs, Cinque Ports and their Members, and other Port Towns within the Kingdom of England, Dominion of Wales and Town of Berwick upon Tweed, who by the Laws are obliged to receive the Sacrament of the Lord's Supper according to the Rites and Usage of the Church of England.*

*Ordered,* That the Report of the Free Conference with the Lords, upon *Saturday* last was Fortnight, be made by the Managers of the said Free Conference.

*Ordered,* That the Managers do inspect the Journals, and report the antient Methods of Free Conferences, and the Precedents thereof.

*Resolved,* That this House will (when the said Report of the Free Conference upon *Saturday* last was Fortnight shall be made) take the Report of the Free Conference this day into Consideration.

*Veneris 5 die Februarii, 1702.*

**M**R. *St. John* (according to Order) reported the Free Conference with the Lords, upon *Saturday* last was Fortnight, upon the Bill for preventing Occasional Conformity.

*Ordered,* That the said Report be entred in the Journal, and is as followeth.

**T**H E Members of this House who were commanded to manage the Free Conference with the Lords, on *Saturday* the 16th of *January*, did meet the Lords.

And the Free Conference was begun by the Managers of this House, who acquainted the Lords, That the Commons had agreed to the Addition of Words their Lordships had made to the Commons Amendments to the Lords Amendment in the second Skin, Line the 33d. But insisted on their disagreement to the Lords other Amendments; and to their Lordship's Clauses marked *B, C, D, and E*, and therefore had desired this Free Conference with the Lords, in order to preserve a good Correspondence between the two Houses.

That the Interest of the Church and State were not to be supported without it; and that the Commons might omit nothing to maintain a good Correspondence, they have taken this way, which has been practised with so good Success by their Ancestors.

That the Intent of this Bill for preventing Occasional Conformity, is only to restrain, to put a stop to a very Scandalous Practice, which is a Reproach to Religion, gives offence to all good Christians, and to the Best amongst the Dissenters themselves.

That this Bill enacts nothing NEW; That it is only intended to make the Laws in being more effectual.

That those Laws were thought sufficient to secure our Establishment: But since the Invention, since the Iniquity of Men had found out ways to evade and elude them, the Commons could never doubt but the Lords would let those Men see they would not be wanting on their part to Maintain and Support it.

F

That



That this Bill appears to the Commons absolutely necessary for the preventing those Mischiefs which must prove destructive to the Church and Monarchy.

That the Commons were incapable of having any Designs they were ashamed to own ; That they designed nothing but the Preservation of the Church of *England* and the Monarchy, and doubted not to meet with a ready Concurrence from the Lords in these Designs.

That an Established Religion and a National Church, are absolutely necessary, when so many Ill Men pretend to Inspiration, and when there are so many Weak Men to follow them.

That if a National Church be necessary, the only effectual way to preserve it, is, by keeping the Civil Power in the Hands of those whose Practices and Principles are conformable to it.

That when the Corporation Act was made, the Parliament had fresh in their Minds the Confusions and Calamities that had been brought upon the Nation by such as pretended to be at the same time in the true Interest of Religion and of their Country ; That the Parliament by that Act, and afterwards by the Test Act, thought they had secured our Establishment, both in Church and State, and that they had provided a sufficient Barrier to defeat and disappoint any Attempts against them, by enacting, That all in Offices should receive the Sacrament of the Lord's Supper according to the Rites and Usage of the Church of *England*, and never imagined a set of Men could at any time rise up, whose Consciences were too tender to obey the Laws, but hardened enough to break through any.

That as upon the Revolution the last Reign began with an Act in favour of the Dissenters, so the Commons do desire in the Beginning of Her Majesty's auspicious Reign, an Act may pass in favour of the Church of *England*.

That the Laws which have been evaded may now be effectually enforced, and that those Men may be kept out of Offices who have shewn they never wanted the Will, when they had the Power, to Destroy the Church.

That nothing has been more misrepresented than this Bill.

That this Bill does not intrench on the Act of Toleration, and in no respect affects what is enacted by it.

That this Bill takes not from the Dissenters any one Privilege they have by Law.

That this Bill gives not any one Privilege to the Church of *England*, which is not (at least) intended her by the Laws as they now stand.

Your Managers then acquainted the Lords, That the Commons insisted on their Disagreement to the Second and Third Amendments made by the Lords in the Preamble of the Bill, and on their Disagreement to the Fourth Amendment, and argued,

That a Preamble is to declare the Occasion of making a Law ; it makes no Law, and if it be proper to the enacting Clause, it is a proper Preamble.

That



That the Propositions advanced in this Preamble are these, That whatsoever Persons are Enacted to Qualifie themselves, the Laws intend should be Conformable to the Church.

That if the Laws provide they shall receive the Sacrament, and by that intend a Conformity, then, whosoever breaks the Intention of the Law, breaks the Law, or at least evades the Law; and it is fit to provide against such Practice.

That if it be fit the Corporation Clause should stand in the Body of the Bill, the Lords Reason for the Amendments in the Preamble will not be of weight.

That the Preamble mentions such Person and such Offices, which must be the Persons and the Offices the Acts relate to, and can be no other.

That the word Enacting can be only understood of the Laws that do so Enact; and being Relative is still more Plain and Necessary.

That however, if the Lords had pleased, they might by a very little Amendment have obviated the Objection they make to these Words, by changing every Person into several Persons, which would have reconciled them to the most Rigid Construction.

Then your Managers acquainted the Lords you insisted on your Disagreeing to their Fifth Amendment, and argued,

That the words in the Test Act are more general and uncertain than those in the Corporation Act, which your Managers cited and compared.

That the words in the Corporation Act have been there more than Forty Years, without any Inconveniency from them, or any Complaint against them for their being too general and uncertain.

That the Inducements for passing the Corporation Act, according to the Preamble, were, That a Succession in Corporations might be perpetuated in the Hands of Persons well affected to the King and the Established Government, and for Preservation of the Publick Peace both in Church and State.

That these were the Purposes the Commons designed in the passing this Law.

That these Purposes the Commons know the Lords will with them own are very proper to be attained, and that the Commons can at no time disown, because they can at no time have any other.

That the Lords agree this Bill should relate to Officers in the Test Act, because the Law intends those Officers should be Conformable; and if the Intention of that Law be the Reason to provide against such Evaders of it, the like Intention in the Corporation Act will serve for a Reason to provide against the Evaders of the Corporation Act.

That by Occasional Conformity the Dissenters may let themselves into the Government of all the Corporations; and it is obvious how far that would Influence the Government of the Kingdom.

That to separate from a Church which has nothing in it against a Man's Conscience to conform to, is Schism.

That Schism is certainly a Spiritual Sin, without the superadding of a Temporal Law to make it an Offence.

That



That Occasional Conformity declares a Man's Conscience will let him conform ; and in such a Man, Nonconformity is a wilful Sin : And why should Occasional Conformity be allowed in Corporations, when the Lords agree that out of Corporations it ought not to be allowed ?

That if it be reasonable, as the Lords allow it is, That he who hath an Office out of a Corporation, tho' it entitles him perhaps to very little Profit or Trust, should be conformable ; it is certainly much more reasonable that another, who is trusted with Magistracy and Power in a Corporation, and has thereby a greater Influence, should be conformable.

Your Managers insisted on your Disagreeing to the Lords Eighth Amendment, and argued,

That if the Lords were pleased to Consider how much greater the Penalties in other Penal Laws were, in many Instances, than in this Bill, they presumed the Lords could not think those in this Bill excessive.

That in laying Penalties, the Commons shall always endeavour to make them such as shall neither tempt to Perjury, nor totally discourage Informations and Prosecutions ; which they thought this Amendment of the Lords would do, could the Commons agree to it.

Your Managers insisted on your Disagreeing to the Lords Ninth Amendment, and argued,

That the Punishment of Incapacity, the Recapacitating, and the Encrease of Punishment for a Second Offence, are warranted by many Precedents of the like nature in other Penal Laws.

That an Incapacity, as qualified by the subsequent Proviso, is a very proper Punishment.

That a Second Offence is a Relapse, an Apostacy, which are Circumstances that aggravate and make it more heinous than the First Offence, and therefore deserve an Encrease of Punishment.

That he is indeed reduced to a very unhappy Condition, who is made incapable of serving his Prince and Country : But in the present Case our Prince and Country would be in a more unhappy Condition, to be served by such whose Principles are inconsistent with the Good and Welfare of our Establishment.

That the Commons could never imagine the Lords could infer from this Incapacity the taking away the Toleration.

That the Toleration was intended only for the Ease of tender and scrupulous Consciences, and not to give a Licence for Occasional Conformity.

That Conforming and Nonconforming are Contradictions ; nothing but a firm Perswasion that our Terms of Communion are sinful and unlawful can justify the one, and that plainly condemns the other.

For your insisting on your Disagreeing to the Clauses marked B, C, D, and E, your Managers offered these Reasons ;

That the exempting Protestant Dissenters from serving Offices, would rather establish Occasional Nonconformity, than prevent Occasional



Occasional Conformity, and therefore encrease, not cure the Evil the Bill was intended to remedy.

That the Act of Uniformity, which establishes the Liturgy and Practice of the Church of *England*, has provided for the Sermons or Lectures preached or read in the Universities.

That those Sermons and Lectures having been in such manner provided for, it was not thought necessary, when the Acts passed in the 16 and 22 *Car. 2.* to prevent and suppress Seditious Conventicles, (in both which Acts Conventicles are described as in this Bill) to have any particular Exceptions for them; and yet they were never by any Construction taken to be Conventicles.

That the allowing an Exemption to such as should be present at the Exercises in the Foreign Reformed Churches, would be to open a Door for the evading this Law.

That the Places of Governors of some Hospitals are very considerable Preferments, and given as such to the Clergy of the Church of *England*; and the Commons can never consent, by any Law, to let in the Dissenters to the Enjoyment of them.

The Managers for the Lords, who spoke at this Conference, were the Lord Steward, the Earl of *Peterborough*, the Bishop of *Sarum*, the Lords *Somers* and *Halifax*.

The Substance of what was said by these Managers for the Lords, was, That the Lords were as desirous as the Commons to preserve a good Correspondence betwixt the Two Houses.

That by their agreeing, so far as they have done, to this Bill, they have gone a great way for the preventing the Evil this Bill is intended to remedy; and own it to be a Scandal to Religion, That Persons should conform only for a Place.

That the Lords do not take Going to a Meeting to be a *Malum in se*, for that the Dissenters are Protestants, and differ from the Church of *England* only in some little Forms; and therefore the Lords think Loss of Office a sufficient Punishment, without an Incapacity.

That it can never be thought those of the better sort will be guilty of this Offence; if they do, they lose their Offices, and loss of Office is a severe Penalty on inferior Officers of the Customs and Excise, &c. who have little else to subsist on.

That Incapacity is too great a Penalty; and that it is hard to imagine any Offence that is not capital can deserve it.

That there is no more reason to punish this Offence with Incapacity, than to make it Felony.

That the Dissenters are not so obnoxious to the Government, as when the Corporation Act was made.

That the most considerable part of the Dissenters are well affected to the present Constitution, and are hearty Enemies to the Queen's and the Kingdom's Enemies.

That in some Corporations the Lords take the Election of Members to serve in Parliament to be only in such as are concern'd in the Government of them, as at *Buckingham*, &c. And the Lords would not by this Bill deprive Men of their Birthrights.



That the Lords do not think fit to bring any greater Hardships upon the Dissenters, since great Advantages have accrued from the Act of Toleration.

That the Dissenters had indeed formerly been seditious, and had appeared in open Rebellion; they then declared both against Church and State: But in the greatest Extremity of the Church, they joyned with her; when the Bishops were in the Tower, the Dissenters shewed they had no Prejudice to the Church, and so they have continued to behave themselves.

That there can be no Schism, where the Differences are not in Essentials of Religion.

That the Lords apprehend an Air of Severity in this Bill; and that though there may be something to be found fault with, yet think it not seasonable to administer Remedies.

That this Bill inflicts a Second Punishment on those who are fled from *France* for their Religion: And tho' this may not be a Breach of the Act of Toleration, yet it gives a Jealousie, and cannot be proper at this Time.

That this may be used as an Argument to justify the Persecution in *France*, when Protestants can scarce endure these Men to live among them, who have been so useful to them in point of Trade, and in other Instances.

That the Disagreeing to the Clause relating to Hospitals and Workhouses, seems very hard; because it is not to be imagined these Men can be hurtful to the Government. What hurt can there come from Dissenting Bread and Cheese, or Presbyterian Water-grewel?

That the Lords think it but equitable to excuse the Dissenters from Burthensome Offices, when they are not allowed those that are profitable.

That if the Lords should agree to this Bill, as the Commons sent it to them, the Dissenters would lose their Votes in the Elections of Parliament; which is taking from them their Birthright, and a great Privilege.

That all who sit in the House of Commons must be Churchmen; and the difference between a Churchman chose by Churchmen, and chose by Dissenters, is only this, That the former will be for using severer, the latter for using gentler Means with the Dissenters.

That the Dissenters ought to have their Liberty of Conscience; but at the same time they ought to be kept out of Power, or any Share of the Government.

That the Act of Toleration has done good to the Church.

That the Dissenters are coming into the Church; and nothing but terrifying Measures can hinder them.

That the Lords are for the Clause relating to the *French* and *Dutch* Churches, to preserve the Reputation the Church of *England* has gained of Tenderness.

That the Penalties in this Bill are much greater than those were in any the Acts of Uniformity.

That high Penalties will encourage False Witnesses; and that Informers were very odious among the *Romans*.



That every Man knows the Liturgy of the Church, but none the Practice, there is such variety in it.

And the Bishop of *Sarum* further added, he supposed every Man believed the two First of the Thirty nine Articles; but there have been many Good and Learned Men could not bring themselves up to give their assents to some of the Last.

That the Preamble of the Bill is general, when divers are excepted in the Acts to which it relates.

That the Test Act is a sufficient Measure, and comprehends all the Offices of consequence in the Government.

That the words in the Corporation Act are general and uncertain.

That an Innocent Man is very well secured against the Penalties in the Test Act, because his complying with that Act will appear upon Record: But in this case he has no defence, but a Negative Proof that he was not at a Conventicle.

That it is the Apostle's Rule, *Omnia probate, quod bonum est tenete*, which would be impossible, should this Bill pass, as the Commons would have it.

That such a Law as this in times of Popery, had prevented the Reformation, which was owing to Occasional Conformity.

That the Test Act was made the more Severe, because the Crime there is of a mixt Nature; there is an owning an Allegiance in another Place.

That the Clause for the Sermons and Lectures in the Universities, would prevent any Misconstructions.

That the Author of that Book, called *The Interest of Holland*, which passes under the Name of *De Wit*, in his Chapter of Manufactures, says, They will never entirely Settle in *England*, because there is not a Liberty of Religion.

That the Improvements of our Manufactures are much owing to the Foreigners that have come among us, which are so encreased, that in the late Reign we Exported a Million of Manufactures Yearly, for several Years, more than in King *Charles's* Reign.

Your Managers, by way of Reply to these Arguments urged by the Lords, said,

That several of the Lords Arguments were against the Bill.

That the Lords had agreed to the greater Part of this Bill, and therefore should confine themselves, and speak only to their own Amendments.

That no Time could be more seasonable for this Bill than the present, because the Church was now in no Danger of Popery or Fanaticism; but good Laws are to be made for Posterity, and may be obtained most easily in the best Reigns.

That the Right of Election of Members to serve in Parliament is in those that are concerned in the Government of the Corporations, and if they should by this Bill be turned out of their Employments, and consequently lose their Votes in the Elections, yet it cannot be said they lose their Birthrights, because no Man is born a Magistrate.

That



That the Commons Penalty bears a just Proportion to the Offence ; and that all above One hundred Pounds is for an obstinate Persisting in the Crime.

That the Offender cannot be guilty through Inadvertency ; he must offend knowingly and willingly.

That the Test Act gives Five hundred Pounds (a much greater Penalty than that in this Act) to the Informer ; besides, that Act brings the Offender under very great Disabilities.

That an innocent Man is no more secure under the Test Act, than under this Bill ; the Question must be always upon his acting or not acting, which does not depend upon the Record ; and a very violent Prosecution has been known within few Years, against an Alderman of *Worcester*, a constant Conformist, only upon a Nicety, and when there had been no Fault in the Party.

That the Trial must be by a Jury, not in a Summary way before a Justice of Peace, as in some of our Penal Laws.

That it was very plain good Protestants might be affected by Prosecutions upon the Test Act.

That some of the Lords Arguments had been so irregular, as to defend Occasional Conformity ; and that your Managers were surprised to hear a Prelate speak in Defence of such a Practice.

Then your Managers left the Bill with the Lords, and said, they hoped the Lords would not let the Publick lose the Benefit of so good a Law.

And the Amendments made by the Lords to the said Bill, and adhered to by their Lordships, being severally read ; and the Question being severally put thereupon, That this House doth adhere to their Disagreeing with the Lords in the said Amendments :

It was resolved in the Affirmative.



*The Lords JOURNAL, relating to the Bill  
for Preventing Occasional Conformity.*

*Die Mercurii 2 Decembris, 1702.*

A Message from the House of Commons, by Mr. Bromley, and others, who brought up a Bill, Entituled, *An Act for preventing Occasional Conformity*: To which they desire the Concurrence of this House.

*Hodie primâ vice lecta est Billa, Intitulat' An Act for preventing Occasional Conformity.*

Ordered, That the said Bill shall be read a Second time to morrow at One a Clock, and all the Lords Summoned.

*Die Jovis 3 Decembris, 1702.*

*Hodie secundâ vice lecta est Billa, Intitulat' An Act for preventing Occasional Conformity.*

Ordered, That the said Bill shall be committed to a Committee of the whole House.

Then it was proposed, That an Instruction be given to the Committee, That this Act extend to no other Persons than such as are comprehended in the Test Act.

And after Debate thereupon,

This Question was put, Whether it shall be an Instruction to the Committee, That this Act extend to no other Persons than such as are comprehended in the Test Act of the Twenty fifth of King Charles the Second?

It was Resolved in the Affirmative.

It is Ordered by the Lords Spiritual and Temporal in Parliament Assembled, That it shall be an Instruction to the Committee of the whole House, to whom the Bill, Entituled, *An Act for preventing Occasional Conformity*, is referred, That this Act shall extend to no other Persons, than such as are comprehended in the Test Act of the Twenty fifth of King Charles the Second.

Then the House was Adjourned during Pleasure, and put into a Committee on the said Bill. After some time,

The House was resumed, and the Lord Herbert reported, That the Committee had made some Progress in the Bill, and desire another time may be appointed for them to sit again.

It is Ordered by the Lords Spiritual and Temporal in Parliament Assembled, That this House shall be put into a Committee again, to proceed upon the Bill, Entituled, *An Act for preventing Occasional Conformity*, to morrow, and all the Lords Summoned to attend.



*Die Veneris 4 Decembris, 1702.*

**T**He House was Adjourned during Pleasure, and put into a Committee upon the Bill, Entituled, *An Act for preventing Occasional Conformity.*

After some time,

The House was Resumed, and the Lord *Herbert* reported, That the Committee had made some further Progress in the Bill, and desire another time might be appointed for them to proceed on the said Bill.

*Ordered*, That this House shall be put into a Committee again, to proceed upon the said Bill, on *Monday* next, and all the Lords Summoned.

*Die Lunæ 7 Decembris, 1702.*

**T**HE House was Adjourned during Pleasure, and put into a Committee, upon the Bill, Entituled, *An Act for preventing Occasional Conformity.*

The House was Resumed, and the Lord *Herbert* reported, That the Committee had gone through the said Bill, and think it fit to Pass, with several Amendments and Proviso's, which were read Twice, and agreed to, and the Proviso's ordered to be Engrossed.

*Ordered*, That the said Bill shall be read a Third Time on *Wednesday* next, and all the Lords Summoned to attend.

*Die Mercurii 9 Decembris, 1702.*

**H**odie *tertia vice lecta est Billa, Intitulat An Act for preventing Occasional Conformity.*

Then a Clause was offered as a Rider, to be part of this Bill; which being read Three times, was agreed to.

Then the Question was put, Whether this Bill, with the Amendments, Proviso's, and Rider, shall pass?

It was resolved in the Affirmative.

A Message was sent to the House of Commons by Sir *Robert Legard* and Doctor *Edisbury*, to return the said Bill, and desire their Concurrence to their Lordships Amendments made thereto.

*Die Jovis, 17 Decembris. 1702.*

**A** Message was brought from the House of Commons, by Mr. *Granville* and others, to acquaint this House, That the Commons desire a Conference with their Lordships, upon the Subject Matter of the Amendments made by their Lordships to the Bill, Entituled,

*An*



*An Act for preventing Occasional Conformity.* To which the House agreed,

Then the Commons were called in, and told, That the Lords agree to a Conference, as desired, and appoint it presently in the *Painted Chamber*.

Then the Lords following were named Managers of the Conference, *viz.*

Dux Devon, Seneschal.	Visc. Townshend
Dux Somerset	Dom. Lawarr
Dux Bolton	Dom. Ferrers
Co. Carlisle, Mareschal.	Dom. Wharton
Co. Peterborow	Dom. North G.
Co. Stamford	Dom. Grey W.
Co. Sunderland	Dom. Mohun
Co. Essex	Dom. Raby
Co. Anglesey	Dom. Rockingham
Co. Berkeley	Dom. Herbert
Co. Torrington	Dom. Haversham
Co. Scarborough	Dom. Somers
Co. Orford	Dom. Halifax

The Commons being come to the Conference, the Managers Names were read.

Then the House was adjourned during Pleasure, and the Lords went to the Conference: Which being ended,

The House was Resumed; and the Lord Steward reported, That the Lords had attended the Conference, which was managed by Mr. Bromley, who acquainted their Lordships, That the Commons agreed to some of their Amendments made to the said Bill, and to other Amendments they disagree, and made Amendments to one of their Lordships Amendments.

Then the First Amendment, to which the Commons disagree, was read: Whereupon,

It was proposed to Adjourn.

Then the Question was put, Whether this House shall now proceed upon the Report of the Conference and Amendments made to the Bill?

It was resolved in the Affirmative.

Then the First Amendment disagreed to by the Commons was read again, *viz.*

Skin 1. Line 10. after [*scrupulous*] read [*But*]. Line 11. leave out from [*whereas*] to [*several*] in the Sixteenth Line: This Amendment postponed. In the Twentieth Line, leave out [*such*]: This Amendment postponed.

Skin 2. Line 4. leave out from [*Family*] to [*shall*] in the Fifteenth Line.

It was proposed to insist on the Amendment made by this House.

After Debate,

The Question was put, Whether this House shall insist upon the Amendment, *viz.*

Skin



Skin 2. Line 4. leave out from [Family] to [shall] in the Fifteenth Line?

It was resolved in the Affirmative.

Skin 2. Line 33. after [afore said] add [or at any Meeting where the Liturgy is used, and where Her Majesty and the Princess Sophia shall not be prayed for in express Words, according to the Liturgy of the Church of England.]

Then the Commons Amendments made to their Lordships Amendment, being read, were agreed to, with the Addition of these Words, viz.

[In pursuance of the Act passed in the First Year of King William and Queen Mary, Entituled, An Act declaring the Rights and Liberties of the Subject, and settling the Succession of the Crown; and the Act passed in the Twelfth and Thirteenth Year of King William the Third, Entituled, An Act for the further Limitation of the Crown, and better securing the Rights and Liberties of the Subject.]

Then the House agreed to the Amendments made to this Clause, with an Amendment.

Then this Amendment being read, viz. Line 34. leave out [100l. and 5l. per Diem, that any such Person or Persons shall continue in the Execution of such Office or Employment,] and instead thereof insert [20l. to be divided into Three Parts, whereof One Third Part to Her Majesty, One other Third Part to the Informer, and the other Third Part to the Poor of the Parish where the Offence shall be committed.]

Ordered and Agreed, To insist on this Amendment.

Ordered, That this House will proceed on these Amendments to morrow, after the Cause; and that all the Lords be Summoned.

*Die Veneris 18 Decembris, 1702.*

**T**HE Order being read for proceeding upon the Amendments made to the Bill, Entituled, *An Act for preventing Occasional Conformity.*

The Amendment in Skin 3. Line 9. leave out from [afore said] to the end of the Bill, was read, and the Clauses to be left out.

Ordered, To insist on this Amendment.

Then the Clauses B. C. and D. being read, which were added to the Bill in the Committee of the whole House, and also the Clause (E.) which was added as a Rider to the said Bill, being read;

Ordered, To insist on the said Clauses.

Then the postponed Amendment in the Preamble, viz. Skin 1. Line 10. after [scrupulous] read [But].

Line 11. leave out from [whereas] to [several] in Line 16. being read:

Ordered, To insist on these Amendments.

Then the Amendment, Line 20. leave out [such] being read;

Ordered, To insist on this Amendment.

Then



Then the Lords Committees were appointed to draw Reasons, to be offered at a Conference, for the Lords insisting on their Amendments made to the Bill, Entituled, *An Act for preventing Occasional Conformity*; whose Lordships are to inspect the Records for Precedents where Bills have begun in the House of Peers, with Penalties in them; as also where Bills have begun with Penalties in the House of Commons, which Penalties have been altered in the House of Peers; and report to the House.

Dux Devon, Seneschal.	Visc. Townshend
Dux Somerset	Dom. Lawarr
Dux Bolton	Dom. Ferrers
Co. Carlisle, Marechal.	Dom. Wharton
Co. Peterborough	Dom. North G.
Co. Stamford	Dom. Grey W.
Co. Sunderland	Dom. Mohun
Co. Essex.	Dom. Raby
Co. Anglesey	Dom. Rockingham
Co. Berkeley	Dom. Herbert
Co. Torrington	Dom. Haverham
Co. Scarborough	Dom. Somers
Co. Orford	Dom. Halifax

Their Lordships, or any Three of them, to meet to morrow at Ten a Clock in the Forenoon in the *Prince's Lodgings*; and that the Committee inspect Precedents, to see where Bills have begun in this House with Pecuniary Penalties; and also where Bills which have begun with Penalties have been altered in this House.

Ordered by the Lords Spiritual and Temporal in Parliament Assembled That the Managers be the Committee, and all the Lords present the Seventeenth Instant to be Managers.

*Die Veneris 8 Januarii, 1702.*

THE Lord Steward Reported from the Lords Committees, the Reasons drawn by them for their Lordships insisting on their Amendments to the Bill, Entituled, *An Act for preventing Occasional Conformity*; \* which were read, and agreed to by the House. Then

\* *Vide p. 16, 17, & 18.*

A Message was sent to the House of Commons by Sir Robert Legard and Doctor Edisbury, to desire a Conference with the House of Commons to morrow at Twelve a Clock in the *Painted Chamber*, upon the subject Matter of the last Conference, upon the Bill, Entituled, *An Act for preventing Occasional Conformity*.

*Die Sabbati 9 Januarii, 1702.*

THE Messengers sent yesterday to the House of Commons, to desire a Conference, return Answer, That the Commons do agree to a Conference, as desired.

I

The



The Commons being come to the Conference, the last Managers Names were read. Then the House was Adjourned during Pleasure, and the Lords went to the Conference; which being ended, the House was resumed, and the Duke of Bolton reported, That the Lords had delivered the Bill, with their Reasons, to the Commons.

*Die Mercurii 13 Januarii, 1702.*

A Message was brought from the House of Commons, by Mr. Annesly, and others, to desire a Free Conference upon the Subject Matter of the last Conference, upon the Bill, Entituled, *An Act for preventing Occasional Conformity.*

To which the House agreed, and ordered the same to be on Saturday next, at One of the Clock, in the Painted Chamber.

Then the Commons were called in and told, That the Lords agree to a Free Conference, as desired, and appoint it to be on Saturday next, at One a Clock, in the Painted Chamber.

*Die Sabbati 16 Januarii, 1702.*

THE House being informed, That the Commons were come to the Free Conference, the Managers Names were read.

Then the House was Adjourned during Pleasure, and the Lords went to the Free Conference; which being ended;

Then the House was Resumed, and the Lord Steward reported, That they had attended the Free Conference, and that Mr. Bromley acquainted their Lordships, That the Commons had agreed to an Amendment that the Lords had made to their Amendment, viz. Skin 2. Line 33. and that the Commons had insisted on their Disagreement to the Lords other Amendments.

Then the First Amendment made by the Lords in Skin 1. Line 10. after [scrupulous] read [but] Line 11. leave out from [whereas] to [several] in Line 16. was read.

After Debate,

The Question was put, Whether this House shall adhere to this Amendment?

It was resolved in the Affirmative.

Then the Second Amendment, viz. Skin 1. Line 20. leave out [such] was read.

After Debate,

The Question was put, Whether this House shall adhere to this Amendment?

It was resolved in the Affirmative.

Then the Amendment in the Second Skin, Line 4. viz. leave out from [Family] to [shall] in the 15th Line, being read.

After Debate,

The Question was put, Whether this House shall adhere to this Amendment?

It was resolved in the Negative.

Then



Then the Amendment, Line 34. leave out [ *One hundred Pounds, and Five Pounds for every Day that any such Person shall continue in the Execution of such Office or Employment* ] and read [ *Twenty Pounds, to be divided into Three Parts, One Third Part to the Queen, One other to the Poor of the Parish where the Offence shall be committed, and one Part to the Informer.* ]

The Question was put, Whether this House shall adhere to this Amendment?

It was resolved in the Affirmative.

Then the Amendment in the Third Skin, Line 9. leave out from [ *aforesaid* ] to the end of the Bill, being also read :

After Debate,

The Question was put, Whether this House shall adhere to this Amendment?

It was resolved in the Affirmative.

Then the next Amendment, Clause (B.) concerning Protestant Dissenters being compellable to hold any Offices, &c. being read :

The Question was put, Whether this House shall adhere to this Amendment?

It was resolved in the Affirmative.

Then the Clause (C.) being read, relating to the University Sermons :

It was agreed to adhere to this Clause.

The Clause (D.) being read, relating to the French Churches allowed of :

It was agreed to adhere to this Clause.

The Clause (E.) being also read, relating to the Governors of Hospitals, &c.

It was agreed to adhere to this Clause.

*Die Lunæ, 25 Januarii, 1702.*

THE House being moved to take into Consideration what Method is to be used in returning to the House of Commons the Bill, Entituled, *An Act for preventing Occasional Conformity*, since the Lords adhering to most of their Amendments, after the Free Conference :

It is Ordered by the Lords Spiritual and Temporal in Parliament assembled, That the Lords Committees, who were the Managers of the Free Conference on that Bill, do meet to morrow at Ten a Clock in the Forenoon, and search Precedents relating to this Matter, and report to the House.

*Die Veneris, 29 Januarii, 1702.*

THE Lord Steward reported from the Lords Committees to inspect the Journals, in relation to delivering Bills to the Commons after the Lords adhering to their Amendments ;

That their Lordships find it is to be delivered at a Free Conference, sometimes with, and sometimes without Reasons.

Then



Then several Precedents were read out of the Journals; after which it was agreed to deliver the Bill at a Free Conference.

Then the Lords Amendment, *viz.* Skin 2. Line 4. leave out from [Family] to [shall] in the 15th Line, to which the Lords had not adhered, being read; and Debate thereupon:

The Question was put, Whether this House shall agree with the Commons, That the Clause now read do stand part of the Bill?

Then the Previous Question was put, Whether this Question shall be now put?

It was resolved in the Affirmative.

Then the main Question was put, Whether this House shall agree with the Commons, That the Clause read do stand part of the Bill?

It was resolved in the Affirmative.

A Message was sent to the House of Commons, by Sir John Hoskins and Sir Robert Legard, To desire a Free Conference on Monday next at One a Clock, in the Painted Chamber, upon the Subject Matter of the last Free Conference, relating to the Bill *For preventing Occasional Conformity.*

The Messengers sent to the House of Commons return Answer, That the Commons agree to a Free Conference, as desired.

*Die Luna, 1 Februarii, 1702.*

**T**HE Commons being come to the Free Conference, the Managers Names were read, and the Lords went to the Free Conference; which being ended, the House was resumed, and the Lord Steward reported, That the Lords had attended the Free Conference as commanded, and delivered the Bill to the Commons, and acquainted them that the Lords had receded from one of their Amendments, and adhered to all the rest.

**T H E**



T H E  
R E P O R T  
O F T H E  
C O N F E R E N C E S  
A N D

Free Conference,  
Relating to the  
Message from the Lords the 4<sup>th</sup> of February, 1702.

T O U C H I N G  
The Commissioners of Accounts,  
and the Proceedings thereupon.

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*Published by Order of the House of Commons.*

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L O N D O N :

Printed for *Edward Jones* in the Savoy ; and *Timothy Goodwin*,  
against *St. Dunstan's Church* in *Fleetstreet*, MDCCIII.



REPORT  
OF THE  
CONFERENCE

Sabbati 27 die Feb. 1702.

i Annæ Reginae.

Ordered,

**T**hat the Report of the Conferences and Free  
Conference relating to the Message from the  
Lords the 4th Instant, touching the Commissioners  
of Accounts, and the Proceedings thereupon, be  
Printed.



Paul Jodrell,

Cl. Dom. Com.

Printed by Order of the House of Commons.

LONDON

Printed for Edward Jones in the Strand; and Thomas Goodwin  
against St Dunstons Church in Fleetstreet. MDCCLII.



*The Report of the Conferences and Free Conference relating to the Message from the Lords the 4th of February, 1702. touching the Commissioners of Accounts, and the Proceedings thereupon.*

*Jovis 4 die Februarii, 1702.*

**A** Message from the Lords by Sir John Franklyn and Dr. Edisbury, That they are to acquaint this House,

*That the Lords have appointed a Committee to Consider of the Observations in the Book of Accounts laid before them by the Commissioners of Accounts the 15th of January, and also those deliver'd the 2d Instant from the said Commissioners: That the Committee met Yesterday Morning, and have proceeded upon the First Observation, and the Additional Observations relating to the Auditor of the Receipt of the Exchequer: And those Commissioners being Members of this House, the Lords do desire, That this House will give leave that those Commissioners, or some of them should Attend the said Committee To-morrow at Ten of the Clock in the Forenoon.*

*Resolved, That this House will return an Answer to the Lords by Messengers of their Own.*

*And the Messengers were called in again, and Mr. Speaker Acquainted them therewith.*

*Resolved, That this House will take the said Message into Consideration at One a Clock.*

*Ordered, That the Consideration of the Message from the Lords this Day, relating to the Commissioners of Accounts, be Adjourned till To-morrow Twelve a Clock.*

*Veneris 5 die Februarii, 1702.*

**T**HE House proceeded (according to Order) to take into Consideration the Message from the Lords Yesterday, relating to the Commissioners of Accounts: And the same being read,

*Resolved, That a Committee be appointed to Inspect the Journals, and search Precedents relating to what hath been done upon the Lords desiring Members of this House to Attend the House of Lords; and in relation to the Lords Inspecting and Examining Accounts. And a Committee was accordingly Appointed.*



*Veneris 12 die Februarii, 1702.*

**O***rdere*d, That the Committee appointed to Inspect the Journals, and search Precedents relating to what has been done upon the Lords desiring Members of this House to Attend at the Bar of the House of Lords, and in relation to the Lords Inspecting and Examining Accounts, do make their Report To-morrow morning.

*Ordered*, That the said Committee do search the Journals of the House of Lords, what Proceedings they have made in relation to the Observations of the Commissioners for Taking, Examining, and Stating the Publick Accounts of the Kingdom; and Report the same to the House.

*Sabbati 13 die Februarii, 1702.*

**C**olonel *Granville* Reported from the Committee appointed to Inspect the Journals, and search Precedents relating to what had been done upon the Lords desiring Members of this House to Attend the House of Lords, and in relation to the Lords Inspecting and Examining Accounts; and also to search the Journals of the House of Lords, what Proceedings they have made in relation to the Observations of the Commissioners for Taking, Examining, and Stating the Publick Accounts of the Kingdom; That they had Searched the Lords Journals accordingly: And he read in his Place what they found therein.

Also, That the Committee had Inspected the Journals of this House, and that what they found therein Applicable to the present Occasion, was in the Journals of One thousand six hundred ninety one, and One thousand six hundred ninety seven; and he deliver'd the said Reports in at the Clerks Table, where the same were read. And are as follow:

*Report of the Lords Journal, Feb. 13. 1702.*

*Die Mercurii 11 Novembris, 1702.*

**O***rdere*d by the Lords Spiritual and Temporal in Parliament assembled, That the Commissioners for Accounts do lay before this House in Writing with all convenient Speed, their Proceedings upon the Publick Accounts in pursuance of the Act of Parliament.

*Die Veneris 15 Januarii, 1702.*

**T**His Day Mr. *King*, Secretary to the Commissioners appointed by a late Act of Parliament to Take, Examine, and State the Publick Accounts of the Kingdom, Delivered at the Bar an Account of



of the General State of the Receipts and Issues of the Publick Revenue between

*The Feast of St. Michael 1700, And*

*The Feast of St. Michael 1701. And also between*

*The Feast of St. Michael 1701, And*

*The Feast of St. Michael 1702.*

*With their Observations thereupon.*

*Die Martis 26 Januarii, 1702.*

**T**HE House being this day moved, That a Day may be appointed for taking into Consideration the Book of Publick Accounts now before this House: It is Ordered by the Lords Spiritual and Temporal in Parliament assembled, That the said Book of Accounts shall be taken into Consideration on *Tuesday* next at Eleven a Clock.

*Die Lunæ 1 Februarii, 1702.*

**I**T is Ordered by the Lords Spiritual and Temporal in Parliament assembled, That the Commissioners of Accounts do Lay before this House To-morrow at Eleven a Clock, what further Observations they have made in relation to the Accounts, since the Delivery of the General State of Receipts and Issues of the Publick Revenue into this House.

*Die Martis 2 Februarii, 1702.*

**T**HE Order being Read for Taking into Consideration the Book of Accounts,

It is thereupon Ordered by the Lords Spiritual and Temporal in Parliament assembled, That the Queen's Remembrancer do immediately bring to this House the Imprest Rolls transmitted to him since *November 1699*.

Then the Title of the Book of Accounts was read, and the Commissioners Observations thereupon.

After which it was proposed to Read the Observations upon the Accounts, Paragraph by Paragraph.

And the First Paragraph being read,

The Lord *Halifax* was heard thereto.

Then the House being informed, That Mr. *Gregory King* attended at the Door, from the Commissioners of Accounts, as order'd Yesterday:

He was call'd in, and at the Bar delivered the Commissioners of Accounts further Observations.

Then the Observations delivered this day were read.



The Queen's Remembrancer attending, was called in, and delivered the Imprest-Rolls transmitted to him since 1699, as ordered.

The House being moved to appoint a Committee to consider of the Observations from the Commissioners of Accounts.

Lords Committees were appointed to consider of the Observations in the Book of Accounts delivered into this House the 15th day of January last, and this day; whose Lordships having considered thereof, and heard such Persons concerning the same as they shall think fit, are afterwards to Report their Opinion thereupon to this House.

*Dom. Godolphin Thesaurar.*

*Co. Pembroke Preses*

*March. Normanby C. P. S.*

*Dux Devonshire Senescall. &c.*

*Co. Lindsey Mag. Camerar.*

*Co. Carlisle Marescall.*

*Co. Kent*

*Co. Huntingdon*

*Vic. Say & Seale &c.*

*Archiep. Cant.*

*Archiep. Ebor.*

*Dom. Bergevenny.*

*Dom. Lawarr.*

*Dom. Somers.*

*Dom. Halifax.*

Their Lordships, or any Five of them, are to meet To morrow at Ten a Clock in the Forenoon in the Prince's Lodgings near the House of Peers, and to Adjourn as they please.

It is Ordered by the Lords Spiritual and Temporal in Parliament Assembled, That the Queen's Remembrancer do bring to the Lords Committees Appointed to Consider of the Observations delivered by the Commissioners of Accounts, to morrow at Ten a Clock, the Imprest Rolls transmitted to him since the 20th of April 1697.

It is Ordered by the Lords Spiritual and Temporal in Parliament Assembled, That the Commissioners for Publick Accounts have notice, That this House hath appointed a Committee to Consider of the Observations delivered into this House by them, To-morrow at Ten a Clock in the Forenoon, in the Prince's Lodgings, near the House of Peers.

*Die Mercurii 3 Februarii, 1701.*

**T**His Day, Mr. Barker, Deputy to Her Majesty's Remembrancer, brought the other Imprest Rolls, as ordered yesterday, which were delivered to the Committee.

The Duke of Somerset Reported, That the Lords Committees appointed to Consider of the Observations from the Commissioners of Accounts, That they have taken the First Observation into Consideration, in relation to the Auditor of the Exchequer; And, That the Commissioners of Accounts had notice of the Committees Sitting; yet none of them Attended. And therefore the Committee is of Opinion, That a Message be sent to the House of Commons, that they may have leave to Attend, To which the House agreed. Then,  
A Message



A Message was sent to the House of Commons; by Sir *John Franklin* and Sir *Richard Holford*, to acquaint them, That this House hath Appointed a Committee to Consider of the Observations in the Book of Accounts laid before this House by the Commissioners of Accounts the 15<sup>th</sup> of *January* last; and also, those delivered yesterday from the said Commissioners. That the Committee met yesterday in the Morning, and had proceeded upon the First Observation; and the Additional Observation, relating to the Auditor of the Receipt of the Exchequer. And those Commissioners being Members of the House of Commons, the Lords do desire, that the House would give Leave, That those Commissioners, or some of them, should Attend the said Committee on *Friday* next, at Ten a Clock in the Forenoon.

*Die Jovis 4 Februarii, 1702.*

THE Messengers sent to the House of Commons Yesterday, return Answer, That the Commons will send an Answer by Messengers of their own.

*Die Veneris 5 Februarii, 1702.*

HIS Grace the Duke of *Somerset* reported from the Lords Committees appointed to Consider of the Observations delivered into this House from the Commissioners of Accounts, That the said Commissioners had not attended the Committee: But upon Consideration of the whole Matter, the Committee had order'd him to Report as followeth:

The Committee appointed to consider of the Observations in the Book of Accounts delivered into this House the 15<sup>th</sup> day of *January* last, and the 2<sup>d</sup> of this Instant *February*, have made some Progress in considering the said Observations; and do humbly take leave to acquaint the House, That they have examined into the First of those Observations; and also the further Observation delivered into this House the 2<sup>d</sup> Instant, relating to the transmitting the Ordinary Imprest Rolls to the Queen's Remembrancer. They have inspected several of the Original Imprest Rolls, delivered into the House by Mr. *Barker*, Deputy to Her Majesty's Remembrancer. They also examined divers Officers of the Exchequer, and others, upon Oath; and do find, That by the Ancient and Uninterrupted Course of the Exchequer, Two Imprest Rolls are to be made out for each Year; the One comprehending all Sums Imprest from the end of *Trinity-Term*, to the end of *Hilary-Term*: The Other containing all such Sums from that time, to the end of *Trinity-Term*. Which Rolls are commonly called Half-Yearly Rolls, tho improperly. They find, That by the Ancient Course of the Exchequer, those Imprest Rolls being made out by the Auditor of the Receipt, are to be delivered by him to the Clerk



Clerk of the Pells ; whose Duty it is to Examine and Sign them And this being done, the Clerk of the Pells delivers them to the Remembrancer.

This Usage was by degrees discontinued in the Reign of King *Charles* the Second ; and the Remembrancer, or his Agent, used to come to the Office of the Auditor of the Receipt, and take away the Imprest Rolls from thence immediately. But in the time when the Earl of *Rochester* was Treasurer, the Ancient Usage was restored, and he did order that the Imprest Rolls should be carefully examined and Signed by the Clerk of the Pells, before they should be transmitted to the Remembrancer. And accordingly, since that time, the Ancient Custom has been observed, as well before as since the Act of Parliament made in the Eighth and Ninth Year of his late Majesty, for the better Observation of the Course anciently used in the Receipt of the Exchequer ; (that is to say) The said Half-Yearly Rolls, when made out and Signed by the Auditor, have been by him transmitted to the Clerk of the Pells : And when the Clerk of the Pells has examined and Signed them, he or his Deputy has delivered them to the Remembrancer. And this appears by the Remembrancer's Indorsement upon the Rolls.

The Committee finds, That *Charles* Lord *Halifax* has been Auditor of the Receipt, from the end of *November*, 1699 : Since which time, Six Imprest Rolls have been transmitted to the Remembrancer, and there is a Seventh Roll now under Examination of the Office of the Pells ; and no other Roll can be prepared till after the 12th of this Instant *February*.

Upon the whole matter, the Committee are humbly of Opinion, That *Charles* Lord *Halifax*, Auditor of the Receipt of the Exchequer, hath Performed the Duty of his Office in transmitting the Ordinary Imprest Rolls to the Queen's Remembrancer ; according to the Ancient Custom of the Exchequer, and the Direction of the Act 8th and 9th *Gulielmi Tertii Regis* ; intituled, *An Act for the better Observation of the Course anciently used in the Receipt of the Exchequer* : And that he hath not been guilty of any Neglect or Breach of Trust upon that Account.

Which Report being read ; as also the Examinations taken upon Oath by the Committee ; as also the Dates and Indorsements of the several Imprest Rolls, delivered by Mr. *Barker*, Deputy to the Queen's Remembrancer : It was proposed to agree with the Opinion of the Committee in this Report.

Then the Question was put, Whether this House will agree to the Opinion of the Committee in this Report ?

It was Resolved in the Affirmative.

It is Resolved and Declared by the Lords Spiritual and Temporal in Parliament Assembled, That *Charles* Lord *Halifax*, Auditor of the Receipt of the Exchequer, hath performed the Duty of his Office, in transmitting the Ordinary Imprest Rolls to the Queen's Remembrancer, according to the ancient Custom of the Exchequer, and the Direction of the Act 8th and 9th *Gulielmi Tertii Regis*, intituled, *An Act for the better Observation of the Course anciently used in the Receipt of*



of Exchequer: And that he hath not been guilty of any Neglect or Breach of Trust upon that Account.

It is Ordered by the Lords Spiritual and Temporal in Parliament assembled, That the Proceedings of the House, and of the Committee, appointed to consider of the Observations in the Book of Accounts, delivered into this House the 15th of January last, and the 2d day of this Instant February; and the Resolution of this House thereupon, shall be forthwith Printed and Published.

It is Ordered by the Lords Spiritual and Temporal in Parliament assembled, That it shall be, and is hereby refer'd to the same Committee, who are appointed to Consider of the Observations of the Commissioners of Accounts, to draw up, and give Directions, what shall be Printed and Published.

The Committee has also inspected the Journals of this House, and what they conceive to be most material, is in the Journal beginning the 22th of October 1691. and in the Journal beginning the 3d of December, 1667. To which they humbly refer themselves, and desire those Passages may be Read: Which were read accordingly, and are as follow, viz.

*Veneris 29 die Januarii, Tertio Gulielmi & Mariae.*

**M**R. Herbert reports, That the Members appointed had prepared Reasons to be offered at a Conference with the Lords, touching the Amendments made by their Lordships to the *Additional Bill for the Appointing and Enabling Commissioners to Examine, Take and State the Publick Accounts of the Kingdom*; which Reasons they had directed him to Report to the House, and which he read in his Place, and afterwards delivered in at the Table, where the same were read and agreed unto by the House, and are as follow, viz.

1. This Bill is for reviving the Act passed the last Session, in order to perfect the Stating of the Accounts; in which the Commissioners named by the Commons have already made a considerable Progress.

2. In all Acts that have ever passed for taking Accounts of Publick Money, the Commissioners have been always named by the Commons only; and in particular, in an Act passed 19 Car. II. Entituled, *An Act for Taking the Accounts of the several Sums of Money therein mentioned*: Which Act impowers the Commissioners therein named to take Account, not only of Money granted by the Commons, but also other Sums of the Publick Revenue. And altho' that Act requires an Account to be given to the King's Majesty, and to both Houses of Parliament, yet all the Commissioners thereby constituted, were named solely by the Commons.

3. The Commons by this Bill appoint those whom they name Commissioners, to do that out of Parliament, which, during the Session of Parliament, is the proper Work of the House of Commons: In whom, by the Laws and Customs of the Kingdom, the Power of granting Supplies to the Crown is vested, as an Essential Part of their Constitution; and the Taking and Examining the Accounts thereof, is of

M

Right



Right in them also: And they being the Representatives of all the Commons, no Commoner can be named, but by them.

4. The Disposition, as well as granting Money by Act of Parliament, hath ever been in the House of Commons: And these Amendments, relating to the Disposal of Money to the Commissioners, added by the Lords, do intrench upon that Right. And therefore the Commons, for these Reasons, do disagree with their Lordships in all their Lordships Amendments to the said Bill.

*Resolved*, That a Conference be desired with the Lords, upon the Subject Matter of the Amendments made by the Lords to the said Bill.

*Ordered*, That Mr. Herbert do, upon Monday Morning next, go to the Lords, and desire the said Conference.

*Lunæ 1 die Februarii, Tertio Gulielmi & Mariæ.*

**M**R. Herbert reports, That he having (according to their Order of Friday last) been with the Lords, to desire a Conference upon the Amendments made by their Lordships to the Bill, Entituled, *An Additional Act for Appointing and Enabling Commissioners to Examine, Take and State the Publick Accounts of the Kingdom*; the Lords do agree to a Conference presently in the Painted Chamber,

*Ordered*, That the Members who prepared the Reasons to be offered at the said Conference, do manage the said Conference.

And the Managers went to the Conference accordingly.

And being returned,

Mr. Herbert reported, That they had attended the Conference, and given the Reasons why this House doth not agree with the Lords in the said Amendments.

*Veneris 5 die Februarii, Tertio Gulielmi & Mariæ.*

**A** Message from the Lords by Sir Miles Coake and Sir James Astry.  
Mr. Speaker,

*The Lords do desire a Conference with this House this Morning at Eleven a Clock, in the Painted Chamber, upon the Subject Matter of the last Conference.*

And then the Messengers withdrew.

*Resolved*, That the House doth agree to a Conference with the Lords, as they desire.

And the Messengers were called in again; and Mr. Speaker acquainted them therewith.

*Ordered*, That the Members who managed the last Conference, do manage this Conference.

Then the Managers appointed went to the Conference.

And being returned,

Sir Joseph Tredenham reports, That they had attended the said Conference, and that the Lord Roebester managed the Conference on the part of the Lords, and acquainted them, That the Lords had desired this



this Conference, for the Continuance of the good Correspondence between the Two Houses: And that the Lords were not satisfied with the Reasons given by this House touching the Amendments to the Bill, Entituled, *An Additional Act for Appointing and Enabling Commissioners to Examine, Take and State the Publick Accounts of the Kingdom*; and that they do insist on all their Amendments to the Bill: And that in Answer to the Reasons given by this House against the said Amendments, the Lords gave the Reasons following, viz.

To the First and Second Reasons offered by the Commons, the Lords answer, That the Commissioners named by the Commons having already made some Progress in the Stating the Accounts, the naming of some new ones can be of no Prejudice to the Perfecting that Work, the nature of Taking and Stating Accounts being such, That new Men being joyned with others, may be very capable of going on with the Remainder of that Work.

The Lords do agree, That in the Act passed in the Nineteenth of King Charles the Second, for Taking Accounts, the Commissioners thereby constitutd were named by the Commons; and the Lords did agree to it, both because they approved of the Number and Quality of the Persons, and because they being not Members of the House of Commons, they might always be sent for at the Pleasure of the Lords, to explain any Matters relating to those Accounts. But the Lords having now had Experience by the last Act, which constituted no Commissioners but only such as were of the House of Commons, that their Lordships cannot have those Commissioners at any time before them, to answer such Questions, or explain such Doubts, as their Lordships may have occasion to enquire into; or even to intimate such Points as seem to have been omitted, either in the Accounts or the Observations made thereupon; is one very great Reason why the Lords have found it necessary to name such, in this Bill, as their Lordships may from time to time receive Informations from; without which, their Lordships Examining into the Accounts will prove defective and dilatory.

To the Third and Fourth Reasons, their Lordships reply, That they are unwilling to enter into a Dispute with the Commons, what is the proper Work of either House, in relation to the granting Supplies to the Crown, or Taking or Examining the Accounts thereof; because they would avoid any Controversies of that kind with the House of Commons, especially at this time, having by Experience found that such Debates have frequently been attended with ill Consequences to the Publick. But upon this Occasion their Lordships conceive 'tis very plain, That since this Bill provides that the Accounts shall be laid before the Lords, it must be likewise owned, That it is the proper Work of this House to examine them; and by no means can their Lordships acquiesce in the Reason given by the House of Commons, *That they being the Representatives of all the Commons, no Commoner can be named, but by them*; Because that would, by the same Parity of Reason, deprive their Lordships of the Power of assigning Council to any Man Impeached by the House of Commons, which in Cases of Mis-  
demeanor



demeanor they have always done; and by the late Bill for Regulating Tryals in Cases of Treason, it was agreed by both Houses, That Council should be allowed in Cases of Treason, even upon Impeachments; which Council must have been assigned by the Lords, and out of the Commons.

Lastly, the House of Lords cannot allow the Disposition as well as granting of Money, by Act of Parliament, to have been solely in the House of Commons: And much less can their Lordships consent, That the Lords have not always had a Right of naming any Persons to be employed in the Publick Service by Act of Parliament, and assigning them such Salary for their pains, out of the *Exchequer*, as should be agreed on in that Act of Parliament. And for these Reasons their Lordships do insist on all their Amendments to the said Bill.

And after Consideration had of the said Report, it was

*Resolved*, That this House doth insist upon their Disagreement with the Lords in the Amendments to the said Bill.

*Resolved*, That a Free Conference be desired with the Lords upon the subject Matter of the last Conference.

*Ordered*, That the Members who managed the said Conference, do meet this Afternoon at Four a Clock in the Speaker's Chamber, and prepare for the said Conference.

*Sabbati 6 die Februarii, Tertio Gulielmi & Mariæ.*

*Ordered*,

**T**HAT Sir Joseph Tredenham do go to the Lords, and desire a Free Conference with the Lords, upon the subject Matter of the last Conference.

Sir Joseph Tredenham reported, That he having (according to Order) been to desire a Free Conference with the Lords, upon the subject Matter of the last Free Conference, the Lords do agree to a Free Conference accordingly, and appoint the same upon *Monday Morning* next, at Twelve a Clock, in the *Painted Chamber*.

*Lunæ 8 die Februarii, Tertio Gulielmi & Mariæ.*

**T**HE Managers appointed went to the Free Conference, desired on *Saturday* last with the Lords, upon the subject Matter of the last Conference.

And being returned,

Sir Joseph Tredenham reports, That they had attended the said Free Conference, according to the Order of the House;

And acquainted the Lords, That this House had insisted on their disagreeing with their Lordships in the Amendments to the Bill For *Appointing and Enabling Commissioners to Examine, Take and State the Publick Accounts of the Kingdom*.

*Mercurii*



*Mercurii 10 die Februarii, Tertio Gulielmi & Mariae.*

A Message from the Lords by Sir John Francklyn and Sir Robert Le-  
gard;

Mr. Speaker,

*The Lords do desire a Free Conference with this House, at One a Clock, in the Painted Chamber, upon the Subject Matter of the last Free Conference.*

And then the Messengers withdrew.

*Resolved*, That this House do agree to a Free Conference with the Lords, as they do desire.

And the Messengers were called in again, and Mr. Speaker acquainted them therewith.

Sir Edward Seymour reports, That the Managers had attended the Free Conference; and that the Lord Rochester managed the same on the Part of the Lords, and brought the Bill, and read the Title of it, *For Appointing and Enabling Commissioners to Examine, Take and State the Publick Accounts of the Kingdom*; and acquainted them, That the Reasons given at the last Conference had been reported to the Lords; and that they had had due Consideration of them; but that notwithstanding they did not depart from their Amendments to the Bill, but did adhere to their Amendments, and delivered the Bill and Amendments back again; and the same were brought up to the Table.

*Ordered*, That a Report of the Two last Free Conferences be made to the House upon Saturday Morning next.

*Sabbati 13 die Februarii, Tertio Gulielmi & Mariae.*

SIR Joseph Tredenham (according to the Order of the Day) reports the Two last Free Conferences with the Lords, as followeth.

That the Conference was begun by the Managers for the Commons, who acquainted their Lordships, That the Commons had desired this Free Conference, to preserve that good Correspondence which had hitherto continued between the Two Houses.

That they had solemnly and deliberately considered their Lordships Amendments to a Bill from the Commons, Entituled, *An Act for appointing Commissioners to Examine and State the Publick Accounts of the Kingdom*, and the Reasons which induced their Lordships to insist on those Amendments, but had not found them sufficient to convince them; and they still disagree with the Lords in those Amendments, and insist on that Disagreement.



That the particular Knowledge the Commons had of the Commissioners named in the Bill, recommended them to their Nomination; and the Progress those Commissioners have already made, in Stating those Accounts, hath justified the Commons good Opinion of their Abilities and Integrity.

That to add new Commissioners, must of necessity delay the perfecting this Work, and would hazard the rendring the Bill ( which continues only for a Year ) ineffectual; for the Commissioners proposed in their Lordships Amendments, will find themselves by their Oath, and to answer their Lordships Expectations, obliged to inform themselves, as well of what hath already undergone the Scrutiny of the present Commissioners, as in those Particulars which shall hereafter become the Subject of their Enquiry, and that such Retrospect cannot be consistent with the Dispatch the Bill requires.

That in Answer to their Lordships Argument, derived from the Quality of the Commissioners named in the Bill, it was demanded, Whether their Lordships could have any Assurance, that the Commissioners they proposed will not be Elected in the Vacancy of this, nor in any succeeding Parliament, wherein these Accounts may be required? Should that happen, their Lordships Amendments would not be useful to attain the End intended.

That the Commons could not determine how far the Quality of the Commissioners named in the Act of Accounts, made in 19 Car. 2. prevailed with their Lordships in agreeing thereto. There was indeed no Member of the Commons of that Committee which met at *Brook-House* with great Reputation; but how little they effected how soon they were Dissolved, and how the Fruits of their Labours became Abortive, is fresh in Memory.

That from thenceforth the Commons, with better Success, reposed Trusts of this Nature in their own Members: Of such were the Committee for Disbanding the Army, constituted 31 Car. 2. Such are the Commissioners in the Act whereunto this Bill relates. It might with as good Logick be Argued, That their Lordships agreed to those last recited Acts, because the Commissioners therein named were then Members of the House of Commons; as that their Lordships were induced to an Agreement with the Commons in the Nomination of the Commissioners of *Brook-House*, because they were not of the House of Commons. But upon this Variety in the Precedents, it may be more reasonably inferred, That their Lordships have from time to time agreed to the Commissioners named by the Commons without respect to their Quality, and because the Right of such Nomination is in the Commons only.

That the Measures by which both Houses are to govern themselves, are derived either from Precedent or Reason; their Lordships had not offered any Precedent in Justification of insisting on these Amendments. If there be any Force in the Argument their Lordships derive from the Clause in this Bill, which provides, That the Accounts shall be laid before the King, and both Houses of Parliament: It extends as well to vest a Right in Their Majesties to Nominate such Commissioners, as in their Lordships, for it equally relates to both.



That the Title and Design of the Bill, is to appoint Commissioners to Examine, Take and State the Publick Accounts of the Kingdom, which, during the Session of Parliament, is the proper Work of the House of Commons; and no Inference can be more natural, than that it is in the Commons only to name Commissioners for the exercise of that Authority, which is an Essential Part of their Constitution.

That they desired to know the End their Lordships would propose to themselves by such Enquiry, should any Misapplication of Money, or Default of Distribution, appear in these Accounts; their Lordships cannot take Cognizance thereof Originally, nor otherwise even in their Judicial Capacity, than at the Complaint of the Commons, should a Failure or want of Money appear, it is not in the Lords to Redress it, for the Grant of all Aids is in the Commons only.

That such Enquiry can only be of use to the Commons to direct their future Supplies; and herein the last Commission proved useful this Session, the Commons supplying the Defects of the Fund upon the Expences in the Excise. If there be a Redundancy, the Commons only can apply it to the Charge of the ensuing Year: If there be discovered Misapplications, or undue Preferences, the Commons only can frame the Accusations, and lay them before their Lordships for Judgment.

That the Managers added, That tho' this Bill be thought so useful at this time, as cannot be sufficiently express'd; yet nothing can be of greater Importance to the Publick, than the maintaining the just and distinct Rights and Privileges, which each Estate of this Kingdom enjoys according to our Constitution: The Lords have many high Privileges to recommend their Lordships to the Favour of their Prince, and to support their Figure in the Government; but the Commons have little besides this One, Of giving Money, and granting Aids. This is their undoubted and inherent Right, and therefore every thing that intrenches on that, the Commons may be allowed to be extremely jealous of.

That the Liberty of naming Commissioners to take Account of the Publick Money is a necessary Dependence of this Right, is evident, if their Lordships will consider, That when any Aids are given, the Commons only do judge of the Necessities of the Crown, which cannot otherwise be made manifest to them, than by enquiring how the Money which hath been granted, and Revenue of the Crown expended and applied. If the several Branches of the Publick Revenues are rightly considered, it will be found there is some particular Use to which they were Originally assigned. There are some necessary Charges incumbent on the King in the Administration of the Government, which these Supplies are to defray; there is no Fund set aside for Contingencies, no Provision made for Casual and Incident Charges, but all Extraordinary Expences require an Extraordinary Supply; and when the Commons do think fit to erect such a Commission, the Expence made in the Execution of it must soon or late be drawn from the Purse of the People; and since the Burden must inevitably light upon their Shoulders, they only can be Judges of the Weight which is fit to be imposed, and to assign the Quantum of the



the Charge, which in this Case is proportionable to the Numbers of the Commissioners: so that this doth not only relate to this undoubted Right of the Commons, but doth finally end in raising of Money it self; which being a Privilege derived to them from their Ancestors, and continued by the uninterrupted Practice of all Ages, 'tis a Right the Commons cannot depart from, but must for ever assert, support and maintain.

For that altho' the Lords, in the Preamble of the Third Reason, seem to wave the Dispute; yet having in their last Reason disallowed the Right of the Commons, in granting, limiting, and disposing Publick Aids, the Commons think it of highest Concern that this Affair, being the main Hinge of the Controversy, should be cleared and settled.

That the ancient manner of giving Aids was by Indenture, to which Conditions were sometimes annexed; the Lords only gave their Consent, without making any Alteration: And this was the continued Practice, until the latter end of *Henry* the Fifth, and in some Instances until *Henry* the Seventh.

That in the famous Record, call'd, *The Indemnity of the Lords and Commons*, settled by the King, Lords and Commons, on a most solemn Debate in 9 *Hen. IV.* it is Declared, That all Grants and Aids are made by the Commons, and only assented to by the Lords.

That the modern Practice is to omit the Lords out of the granting, and name them Parties only to the Enacting Clause of Aids granted to the Crown; to which their Lordships have always concurred, and on Conferences departed from their Attempts of Petty Alterations, in Acts relating thereunto.

That if then all Aids be by the Grant of the Commons, it follows that the Limitation, Disposition, and manner of Account, must likewise belong only to them.

And that altho' the Account then stated was ordered by 19 *Car. II.* and the Act to which this Bill relates, to be brought before Their Majesties and both Houses of Parliament, this was a voluntary Act, and no Concession of the Commons; for when their Lordships insisted upon it as of Right, in 31 *Car. II.* it was denied; and their Lordships, after several Conferences thereupon, withdrew their Amendment to that Bill.

That the Lords who appeared as Managers, and spoke at this Conference, were the Earl of *Devonshire*, the Earl of *Nottingham*, and the Earl of *Rocheſter*.

That the Substance of what was deliver'd by the Lords was to this Effect, That their Lordships are willing at all times to meet with the Commons at Conferences and Free Conferences, with an equal Desire to continue a good Correspondence between both Houses; and have often condescended in some Things, rather than to go on with further Debates: For tho' Conferences are the best way of reconciling any Difference, between the Two Houses, yet they are Marks to the World that there is such a Difference; and the Lords, even in this Case, would have condescended to depart from their Amendments, if they



they had not judged them to be of such Consequence, that they could not do it.

That they took Notice that it had been said, That Debates of this kind ought to be governed either upon Reason or Precedent; and they would endeavour to proceed upon both.

That in the Act 31. Car. II. for Disbanding the Army, there was no Direction to give any Account to either House; and in the Act in the Year 1677. for the Building of Ships, there was no Account to be given to the House of Lords: So that these Precedents, which the Gentlemen of the House of Commons insisted upon, are not very applicable in the Matter of Debate; for in the last Act, and the Bill now depending, there is a Clause, That an Account shall be given to both Houses.

That the Lords had experienced by the last Act, That the Enquiry their Lordships are directed to take by this Act are defective and dilatory, for want of Commissioners that can attend them; and are able to explain such things as they may have occasion to enquire into: And it cannot be imagined, that ever they can have that Satisfaction by writing to them, which they may arrive at by personal Examination.

That it is very true, that in the Act of 19. Car. II. for Taking the Publick Accounts, there were no Commissioners named by the Lords; but 'tis as true those Commissioners were not Members of the House of Commons; and they had no reason to disagree in that Matter, because this Objection did not lie against them.

That their Lordships declined all Arguments concerning the Rights of the Commons in Granting, Limiting, and Disposing Publick Aids, and therefore forbore to answer any Arguments of that kind; for that the Business now depending relates only to the taking Accounts, and directing such part of the Revenue as is not appropriated to the Payment of Salaries to such Persons as are employed therein, which their Lordships take to be quite another thing.

That the Commons urge it with great weight, if their Lordships could shew no Precedent for doing this; But if there be any such Precedent, their Lordships did hope the Commons would allow them for Reasons; for it is not to be supposed these Precedents were made without Reason.

That the Commons insist they are the Representative of all the Commons of England; and that the Lords can name no Commoner a Commissioner, nor appoint Money to such Persons for these Services. It appears by the Journals of the Lords, and 'tis to be supposed in those of the Commons likewise, That in the Poll Bill, August, 1660. the Lords named Commissioners for the Cinque Ports, and expunged some in Kent and Sussex; to all which the Commons agreed: In an Act, 31. Car. II. for Disbanding the Forces, the Lords added Bennet Lord Sherrard, and the Commons agreed to it.

That in an Act made 12. Car. II. for speedy Disbanding the Army, the Lords named Commissioners that were Peers, who were to be joined with Commissioners named by the Commons; and afterwards,



in an Additional Act for Disbanding the Remainder of the Army, John Walker was added a Commissioner by the House of Lords, and his Salary was Twenty Shillings *per Diem*, which last Precedent comes directly up to be a Precedent in point; only in the Amendments now offered, there are four who are to have Five hundred Pounds *per Annum* each, and he was one who had Three hundred sixty five Pounds *per Annum*.

That it was insinuated by some of the Gentlemen of the House of Commons, That the end their Lordships could propose to themselves by such an Enquiry, must be either to discover what Offences have been committed in the Misapplication, or whether there be a Failure of the Money for the ends for which it was intended; and that to neither of these their Lordships Enquiry can be of use; for as to the Punishment, it must be by Impeachment; and if there be any want of Money, the Lords cannot come at it. This their Lordships look on as an Objection to the Clause it self, But not to their naming Commissioners, to satisfy their Lordships in relation to the Accounts.

That there are other uses may be made of these Accounts; the Lords may have leisure to enquire into these Accounts, whilst the Commons are employed on other weighty Occasions; and the Lords may take notice, for there is an Account of it in the Printed Votes, licenced by the Speaker, That the Commons have not made so great a Progress in those Accounts as their Lordships have done; and should the Lords discover Miscarriages, they may order a Prosecution of them in the *Exchequer*, lay them before the House of Commons, or represent the Matter to the King.

That there are some Precedents in *Richard II's* Time, and it seems to be implied in the Precedents quoted in the Year 1677, about the Act for building Thirty Ships, That the House of Commons have not of themselves a Right to take these Accounts, for the Dispute then was not about the Commissioners, but the laying the Accounts before the Commons alone; for had they Power to call for them their selves, an Act would not have been necessary; and the Precedent of the Lords, receding at that time, ought not to be reckoned to their Disadvantage, because from their suspending their Privileges at that time, which they did with a Protestation, and from the Thirty Ships that were built thereupon, it is that we sit here in safety.

In that Dispute it was acknowledged, That it was the inherent Right of the Lords to call for the Accounts; so that 'tis no extraordinary thing that the Commons have now done, for this Bill gives the Lords and Commons an equal Right to call for the Accounts; And since the Commons cannot call for these Accounts so well as by this Bill, wherein they have named Persons, under their own Jurisdiction as Members of your House, it is but reasonable they likewise should name such Commissioners, as they may have Authority to call upon; for the Commons will hardly allow them Authority to send for the Members of the House of Commons.

On the whole, since the Bill had allowed their Lordships to take the Accounts, their Lordships desired to know what Reason there

could



could be why they should not be allowed the proper Methods of coming at these Accounts.

That the Managers for the Commons, by way of Reply, said that the Precedents in 1660, 31 Car. II. and Additional Bill in 12 Car. II. were no grounds for their Lordships insisting to add and appoint Commissioners; Because in those the Lords had the Consent of the Commons signified to their Lordships by their Representatives in Parliament. But the Lords have no Right to imple an Office or Burthen upon any Commoner, without their own Consent; and in the Course of the Legislature, the Lords have no means to know, neither hath a Commoner any way to signify his Consent or Dissent, but by his Representatives in Parliament. To insist to appoint Commissioners, after their Dissent is signified in the proper Parliamentary way, is to insist upon a Right of appointing Commissioners, and imposing a Burden upon them without their Consents; which their Lordships never pretended to, no more than the Commons to nominate and appoint Peers in any Commissions.

That in the Aid given in the Second Year of their Majesties Reign, the Lord *Dursley* was inserted a Commissioner; in case the Lords had not signified his Dissent, he had been a Commissioner, and yet that would not have been a Precedent of the Commons Right of appointing a Peer to be a Commissioner, and insisting upon it. But the Lords by Amendment left him out, and the Commons agreed to the Amendment, though in a Money Bill; conceiving they had no Right to insist upon naming a Peer without the Consent of the Peers, who only can bind their own Members: Neither can the Peers pretend to a larger Right over the Commons.

That their Lordships in their Reasons say, That if they may not nominate Commons Commissioners, by parity of Reason they may be deprived of assigning Council upon Impeachments for Misdemeanor, and in Cases of High Treason, where Matter of Law appears.

That the Commons conceive this is not a natural Consequence: For in Cases of Impeachment they act in their Judicial Capacity; and the Law gives the Party accused a Right to have Council, and their Lordships assign Council when the Party cannot get Council to assist him, and the Law enables their Lordships to do it. But there is no Law which entitles them to nominate Commissioners for passing Accounts.

That their Lordships alledged that in the Bill for Regulating the Tryal of Treason, both Houses agreed that their Lordships might assign Council in Cases of Impeachment for High Treason.

That the Bill not passing, that cannot be urged as a Precedent.

That as the Lords cannot supply the Want, that being the Act of the Commons, nor punish the Misapplication till Complaint is made by the Commons; so neither can their Lordships acquaint the Commons at a Conference, That there hath been a Misapplication of the Money; Because that were giving Judgment before the Matter came judicially before them.

That the Lords cannot punish a Commoner (except for Breach of their Privilege) without an Information made by the Commons.

That since no Fruit can be had by their Lordships Enquiry, why should they nominate Commissioners, not being their Representatives?

And



And that to insist upon it at this time, is most unreasonable when the Commons, for the Support of the Government, lay under the heavy Burden of so many Taxes; which Weight will be much increased by being denied the Satisfaction of knowing how their Money is disposed of, and having those screened from Justice who misapplied the same; which must necessarily happen by denying to agree with the Commons.

That in answer to what was said by their Lordships, That in case of the Building the Thirty Ships it was admitted their Lordships had a Right to take the Accounts; it was admitted, with this Distinction, That as to the Stating and Examining the Accounts, it belonged only to the Commons, but that the Lords claimed the Cognizance of the Accounts in their judicial Capacity, for their Information in Cases of Misdemeanour.

That as to the Question which their Lordships ask, *To what end are these Accounts to be laid before them?* to which there seems some Difficulty to make an Answer, the Commons cannot but observe from thence, Their Lordships Right to demand to have those Accounts, is not very clear; for 'tis a strange kind of Right, for which 'tis hard to give a Reason.

Upon Consideration whereof, it was Resolved, That this House doth adhere to their Disagreeing with the Lords to the Amendments made by the Lords to the Bill, Entituled, *An Additional Act for Appointing and Enabling Commissioners to Examine, Take and State the Publick Accounts of the Kingdom:* And that this House doth adhere to the Bill, as it was sent up from this House.

*Luna. 21 die Martii, 10 Gulielmi Tertii.*

A Message from the Lords by the Lord Chief Baron Ward and Mr. Justice Nevill.

Mr. Speaker,

We are commanded by the Lords to acquaint this House, That whereas a scandalous Paper reflecting on the Lord Chancellor and his Proceedings in the Court of Chancery, hath been complained of and read in the House of Lords, of which their Lordships are informed upon Oath, that Mr. Robert Bertie, a Member of this House, can give some Account; their Lordships do desire, That for that Purpose this House will give Leave for him to appear before the Lords.

And then the Messengers withdrew.

Resolved, That this House will send an Answer by Messengers of their own.

And then the Messengers were called in again, and Mr. Speaker acquainted them therewith.



*Martis 22 die Martii. 10 Gulielmi Tertii.*

**T**HE House proceeded to take into Consideration the Message from the Lords yesterday, touching Mr. Robert Bertie.

*Ordered,* That a Committee be appointed to draw up, upon the Debate of the House, an Answer to be given to the said Message, and that they do immediately withdraw into the Speaker's Chamber, and draw up the same.

And a Committee was appointed accordingly.

*Mercurii 23 die Martii. 10 Gulielmi Tertii.*

**T**HE Lord Spencer reported from the Committee appointed to draw up an Answer (upon the Debate of the House) to be given to the Message from the Lords upon Monday last, touching Mr. Robert Bertie, That they had drawn up the same accordingly, which they had directed him to Report to the House, which he read in his Place, and afterwards delivered in at the Clerks Table; where the same was read, and is as followeth,

The Commons having received a Message from your Lordships, wherein your Lordships did acquaint them, That a Scandalous Paper Reflecting on the Lord Chancellor and his Proceedings in the Court of Chancery, has been complained of and read in the House of Lords, of which your Lordships are Informed upon Oath, That Mr. Robert Bertie, a Member of the House of Commons, can give some Account; Your Lordships do desire that for that purpose, the Commons would give leave for him to Appear before your Lordships.

The Commons have Commanded us to acquaint your Lordships, That they not being Informed by the said Message, of the particular Matters contained in the said Paper, or upon what Grounds your Lordships ask to have their Member appear before you, They desire your Lordships to let them know what the Nature of that Account is, which is expected from their Member.

The Answer being read a Second time was agreed unto by the House.

*Resolved,* That the said Answer be delivered to the Lords at a Conference.

*Resolved,* That a Conference be desired with the Lords upon the Subject Matter of the Message from their Lordships upon Monday last, touching Mr. Robert Bertie.

P

*Ordered,*



*Ordered*, That the Lord *Spencer* do go to the Lords, and desire the said Conference.

The Lord *Spencer* reported, That he having (according to Order) been to desire a Conference with the Lords upon the Subject Matter of their Message upon *Monday* last, touching Mr. *Robert Bertie*; the Lords Answered, That they will return an Answer by Messengers of their own.

*Jovis 24 die Martii. 10 Gulielmi Tertii.*

A Message from the Lords by Sir *Miles Cook*, and Mr. *Meredith*.  
Mr. Speaker, *The Lords do agree to the Conference desired by this House upon the Subject Matter of the Message from their Lordships to this House in relation to Mr. Robert Bertie, and do appoint it presently in the Painted Chamber.*

*Ordered*, That the Committee who drew the Answer touching Mr. *Bertie*, do manage the Conference.

And they went to the Conference; and being returned,

The Lord *Spencer* reported, That they had given to the Lords the Answer directed by this House.

*The Preceding Report being made by Col Granville, 13. Feb. 1702.*

*Ordered*, That the said Committee do draw up what is proper to be Offered to the Lords, at a Conference upon the Subject Matter of the Message from the Lords the 4<sup>th</sup> Instant, relating to the Commissioners of Accounts, and the Lords Proceedings in relation to the Observations of the said Commissioners.

*Martis 16 die Februarii, 1702.*

Colonel *Granville* Reported from the Committee to whom it was referred to draw up what is proper to be Offered to the Lords at a Conference, upon the Subject Matter of the Message from the Lords the 4<sup>th</sup> Instant, relating to the Commissioners of Accounts, and the Lords Proceedings in relation to the Observations of the said Commissioners; That the Committee had drawn up the same accordingly, which they had directed him to Report to the House, which he read in his Place, and afterwards delivered in at the Clerk's Table, where the same was read, and agreed unto by the House, and is as followeth:

THE Commons cannot comply with your Lordships Desires contained in your Message of the 4<sup>th</sup> Instant,

Because the Commons are still of the same Opinion as was delivered to your Lordships in *February* 1691, at a Free Conference upon the



the Subject Matter of the Amendments made by the Lords to the Additional Bill for the Appointing and Enabling Commissioners to Examine, Take, and State the Publick Accounts of the Kingdom; when they desired to know the End your Lordships would propose to your selves, by an Enquiry into the Publick Accounts: For should any Misapplication of Money, or Default of Distribution appear in the Accounts, your Lordships cannot take Cognizance thereof Originally; or otherwise, even in your Judicial Capacity, than at the Complaint of the Commons. And should a Failure or want of Money appear, it is not in your Lordships power to redress it; for the Grant of all Aids is in the Commons only; or if there be any Surplusage, the Commons only can apply it to the Charge of the ensuing Year.

But should the Commons give leave to the Commissioners to attend your Lordships, no Information they can give against any Person whatsoever, can entitle your Lordships either to Acquit or Condemn. Yet since this Message, the Commons find in your Lordships Journals the following Resolution; viz. That

*It is Resolved and Declared by the Lords Spiritual and Temporal in Parliament assembled, That Charles Lord Halifax, Auditor of the Receipt of the Exchequer, hath performed the Duty of his Office in Transmitting the ordinary Imprest Rolls to the Queen's Remembrancer, according to the Ancient Custom of the Exchequer, and the direction of the Act 8 & 9 Guliel. Tertii Regis, entituled, An Act for the better observation of the Course anciently used in the Receipt of the Exchequer: And that he hath not been guilty of any Neglect or Breach of Trust upon that Account.*

Which looks to the Commons as if your Lordships pretended to give a Judgment of Acquittal, without any Accusation brought before your Lordships, and consequently without any Tryal. And that which makes your Lordships Proceedings yet more irregular, It tends to prejudging a Cause which might regularly have come before you, either originally by Impeachment, or by Writ of Error from the Courts below. And therefore the Commons can see no use of this Resolution, unless it be either to intimidate the Judges, or prepossess a Jury.

But if your Lordships could have judged in this matter, it does not appear by your Lordships Journals, that you have had under Examination the respective Times of transmitting the several Imprest Rolls to the Queen's Remembrancer; without which, it is impossible to know whether the Auditor of the Receipt has done his Duty according to the Act of Parliament.

**O**rdred, That a Conference be desired with the Lords upon the Subject Matter of the Message from the Lords the 4th Instant, relating to the Commissioners for Taking, Examining, and Stating the Publick Accounts of the Kingdom, and the Lords Proceedings in relation to the Observations of the said Commissioners.

Ordered, That Mr. Boyle do go to the Lords, and desire the said Conference.

Mr.



Mr. Boyle Reported, That he having (according to Order;) been at the Lords to desire a Conference with their Lordships, they do say, That they will return an Answer by Messengers of their Own.

*Mercurii 17 die Februarii, 1702.*

**A** Message from the Lords by Sir Robert Legard, and Sir Richard Holford, That the Lords do agree to a Conference as Yesterday desired by this House, and do appoint it presently in the Painted Chamber.

And Managers were appointed to Manage the Conference; and they went to the Conference.

And being Returned,

Colonel Granville Reported, That they had been at the Conference with the Lords, and delivered to the Lords what the House had Directed.

*Luna 22 die Februarii, 1702.*

**A** Message from the Lords, by Sir Robert Legard and Dr. Edisburry, That the Lords desire a present Conference with this House in the Painted Chamber, upon the Subject Matter of the last Conference.

To which the House agreed.

And the Messengers were called in again, and Mr. Speaker acquainted them therewith.

Ordered, That the Managers who managed the last Conference, do manage the said Conference.

And the Managers went to the Conference.

And being returned,

Col. Granville Reported, They had met the Lords at the Conference, and that it was managed by the Lord Steward; who acquainted them, That they had desired this Conference for preserving a good Correspondence between the Two Houses, which was necessary at all times. And further, That the Lords had come to the several Resolutions following;

*Die Jovis 18 Februarii, 1702.*

**I**T is Resolved and Declared by the Lords Spiritual and Temporal in Parliament assembled, That the Lords have an Undoubted Right, (which they can never suffer to be Contested) to take Cognizance Originally of all Publick Accounts, and to enquire into any Misapplication or Default in the Distribution of Publick Moneys, or into any other Mismanagements whatsoever.

It is Resolved and Declared by the Lords Spiritual and Temporal in Parliament assembled, That the Lords in their Enquiry into the Examination of the Observations of the Commissioners of Accounts, in relation to Charles Lord Halifax, and in their Resolution thereupon, have proceeded according to the Rules of Justice, and the Evidence that was before them.

It is Resolved and Declared by the Lords Spiritual and Temporal in Parliament assembled, That the Commons in their Reasons delivered



ed at the last Conference, have used several Expressions and Arguments highly Reflecting, and altogether Unparliamentary, tending to destroy all good Correspondence between the Two Houses, and to the Subversion of the Constitution.

*Resolved*, That this House will take the said Report into Consideration To-morrow Morning.

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*Martis 23 die Februarii, 1702.*

**T**HE House (according to Order) proceeded to take into Consideration the Report of the Conference yesterday with the Lords: And what was offered to the Lords at the first Conference was read; and also the Report of the Conference yesterday.

*Resolved*, That a Free Conference be desired with the Lords upon the Subject Matter of the last Conferences.

*Ordered*, That the Managers who Managed the last Conference, do Manage the said Free Conference: And others were added to them.

*Ordered*, That the Managers do meet together, and Consider of what Heads are fit to be gone upon at the said Free Conference, and Report the same to the House.

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*Jovis 25 die Februarii, 1702.*

**C**olonel *Granville* Reported from the Committee who were appointed to prepare Heads for a Free Conference with the Lords, upon the Subject Matter of the last Conferences, That they had prepared the same accordingly, which they had directed him to Report to the House, which he read in his Place, and afterwards delivered in at the Clerks Table, where the same were Read once throughout, and then a Second time one by one, and (with an Amendment to one of them) agreed unto by the House, and are as follow,

That no Cognizance the Lords can take of the Publick Accounts, can enable them to supply any Deficiency, or to apply any surplussage of the Publick Money.

That the Lords can neither Acquit nor Condemn any Person whatsoever, upon any Enquiry arising Originally in their Own House.

That the Attempt the Lords have made to acquit *Charles Lord Halifax*, Auditor of the Receipt of *Exchequer*, is Unparliamentary, and not warranted by any President: And the Resolution thereupon is plainly contrary to what appears on the Records themselves.

That the Conference desired by the Commons, was in order to preserve a good Correspondence between both Houses, by offering Reasons to prevent the Lords from proceeding in a Case which they had no President to warrant; and the Commons expressing the Consequences they apprehended might follow from that Resolution, was neither Reflecting nor Unparliamentary, or tending to destroy the good Correspondence between the Two Houses, and much less to the Subversion of the Constitution.

That the Lords delivering at a Conference their Resolutions instead  
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of Reasons, in Answer to the Reasons of the Commons, is not agreeable to the ancient Rules and Methods of Parliament, observed in Conferences between the Two Houses.

*Ordered*, That Sir Thomas Hanmer do go to the Lords and desire the said Free Conference.

Sir Thomas Hanmer Reported, That he having (according to Order) been at the Lords to desire a Free Conference, the Lords do agree to a Free Conference, and appoint the same presently in the Painted Chamber; and the Managers went to the Conference.

And being returned.

Mr. Finch reported, That the Managers had attended the Conference; and that on the part of the Lords, it was Managed by the Lord Ferrars, the Lord Halifax, the Lord Steward, the Lord Herbert, and Earl of Carlisle.

*Ordered*, That the Managers do draw up a Report of the said Free Conference, and present the same to the House.

*Sabbati 27 die Februarii. 1<sup>o</sup> Anna Reginae. 1702.*

Colonel Granville reported, That the Managers of the Free Conference with the Lords, on *Thursday* last had (according to Order) drawn up a Report of the same, which they had directed him to Report to the House, which he read in his Place, and afterwards delivered in at the Clerks Table.

*Ordered*, That the said Report be entred in the Journals; and the same is as followeth:

**T**HE Managers acquainted their Lordships, That the Commons had desired this Free Conference, in order to maintain a good Correspondence between the Two Houses. And that upon consideration of the Reasons offered by the Commons at the First Conference, and their Lordships Answer delivered at the last, they took the Points in difference to be, *First*, That no Cognizance the Lords could take of the Publick Accounts, could enable them to supply any Deficiency, or apply any Surplusage of the Publick Money, in case any should be found. And then your Managers went on to open the rest of the Particulars which they had in direction from the House to insist on, which they did in the same manner as they appear by your Journal; but added, when they acquainted their Lordships, that the expressing the Consequences which they apprehended might follow from their Resolution, That it was not a Charge upon their Lordships, that they intended that Consequence; but they would have been very glad their Lordships would have been pleased to have let them know what use was to be made of it, or what they intended by it: And concluded, that if their Lordships did controvert any of those Points; your Managers were ready to maintain them.

The Lords made no Answer to any of those Particulars, save to the matter of the Resolution relating to the Lord Halifax; upon which their Lordships did acknowledge, That they were no Court of Enquiry, to form any Accusation: That their Proceedings in relation to that Lord, was no Tryal; Nor was their Resolution any Judgment or Acquittal;



Acquittal; but that he might still be Prosecuted as before: But that which gave occasion to that Proceeding, was the Resolution of the House of Commons, which they found in the Printed Votes, reflecting upon a Member of their House; and thereupon they thought fit to give their Opinion, which they did in their Legislative Capacity.

To which the Managers replied, That their Lordships having in their Resolutions, declared, That they had proceeded according to the Rules of Justice, and the Evidence that was before them; The Commons could put no other Interpretation upon it, than that it was intended as a Judgment: And no Judgment could be made, where there was no Accusation; and if it was not a Judgment, they could not imagine what it did tend to.

As to their Lordships delivering their Opinion; the Managers observed, It was against the Rule of any Court, that any Judge whatsoever, should deliver an Opinion in a Cause that might come before him; and this Matter might hereafter come judicially before their Lordships.

And the Managers observed the great difference between the Resolution of the Commons, and that of the Lords. The Vote of the House of Commons was but in order to a Prosecution, which they can never Vote, without declaring the Crime; and they can never come to be Judges of it. The House of Commons is the Grand Inquest of the Nation; and every Grand Jury that finds *Billa Vera* upon an Indictment, does by that declare the Man guilty. But the Lords have a Judicial Capacity; and their Resolution before an Accusation brought, is prejudging the Cause that may come regularly before them. And some of the Managers in speaking to these Points, were frequently interrupted by their Lordships.

As to the Observation the Commons made, That the Lords had not examined the respective Times of transmitting the Imprest Rolls to the Queen's Remembrancer; your Managers said, That as their Lordships Resolution was no Judgment, so this Conference was no Tryal. But to shew the Mistake of their Lordships Resolution, they observed the Dates upon the several Imprest Rolls that had been transmitted to the Remembrancer; that they apprehended there were still two wanting. That the three last that were transmitted, came not to the Remembrancer till *January* last, the two first on the 23<sup>d</sup>, the last on the 27<sup>th</sup>. The first of these three Imprest Rolls was Money imprest to the 21<sup>st</sup> of *Feb.* 1700, and said to be in the first Year of the Reign of *Queen Anne*; which shewed that that Roll was so far from being examined or transmitted in time, that it was not made up till since Her Majesty came to the Crown.

That as the Custom formerly has been, to set down the Time of the Examination of those Rolls; since Mr. *Chr. Mountague* came in to be Auditor, he set down the Month, but not the Day: And since the Lord *Halifax* was Auditor, he had set down neither Month nor Day. And by his Example, on the three last Imprest Rolls the Clerk of the Pells had put down no time at all.

To which a Noble Lord in his own Defence replied, That the Lords Resolution was well founded, since they had the Rolls themselves before them, and Proof upon Oath; that by the Words of the Act, the Auditor was to transmit the Imprest Rolls to the Remembrancer Half-yearly, according to the usual Course of the Exchequer; which



which is Eight Months, and Four Months; that it was not his Duty to transmit them immediately to the Remembrancer; because he was to send them to the Clerk of the Pells, who is to examine and Sign them. And it cannot be imagined, the Auditor should be tyed to a certain Time, to transmit the Rolls to the Remembrancer, because they must first go through another hand; and he never took it, there was any occasion to put down the Time he examined them, for that would appear from the time of the Delivery, and Date of the Roll.

That there was one examined by the Clerk of the Pells, the 4<sup>th</sup> of July, and not delivered till the 23<sup>d</sup> of January; which he did not take to be the Auditor's fault, but took it to be the duty of the Clerk of the Pells to deliver them. That every body knew the great trouble had been given in his, as well as other Offices, by the Commissioners of Accounts. That no publick Loss had happened by not transmitting these Rolls; no Process having been issued forth for many Years upon them.

To this, your Managers answered, That tho Half-yearly should be taken for Eight Months, and Four Months; yet by that, they must be transmitted twice a Year; and that he had fail'd in his Duty in that respect.

To contrarie the ancient Course of the Exchequer, in the Act of Parliament, to be meant that the Clerk of the Pells should transmit the Rolls; is a direct Contradiction to the Act, that says the Auditor shall do it. And the Ancient Course of the Exchequer not having been observed, was the occasion of making that Law; and that they thought Laws were made to be observed. That indeed no Process could issue, till the Rolls were transmitted; and possibly that might be the Ground the Accounts have been so long unpass'd, to the prejudice of the Publick. That his Lordship's Apprehension there was no Loss to the Publick, by not transmitting the Rolls, might probably be the Reason of his Lordship's neglecting his Duty.

**B**y Virtue of an Order of the House of Commons, I do Appoint Edward Jones and Timothy Goodwin to Print the Bill entituled, An Act for preventing Occasional Conformity, With the Amendments made by the Lords, and the Amendments made by the House of Commons to those Amendments: And the Reports of the several Conferences relating thereunto; and the Proceedings thereupon. As also the Reports of the Conferences between the Two Houses, relating to a Message the Fourth of February last, touching the Commissioners of Accounts, and the Proceedings thereupon. And that no other Person Presume to Print the same.

R. O. HARLEY, Speaker.

#### A D V E R T I S E M E N T.

**T**HE Evidence given at the Bar of the House of Commons, upon the Complaint of Sir John Pakington, against William Lord Bishop of Worcester, and Mr. Lloyd, his Son. Together with the Proceedings of the House thereupon. Published by Order of the House of Commons. Printed for Edward Jones and Timothy Goodwin.





Her Majesties  
MOST GRACIOUS  
S P E E C H

To both HOUSES of  
PARLIAMENT,

On *Friday* the Seventeenth Day of *December*, 1703.



L O N D O N,  
Printed by *Charles Bill*, and the Executrix of *Thomas Newcomb*, deceas'd ; Printers to the Queens most  
Excellent Majesty. MDCCIII.

*The Queens Speech to the  
Parliament 1703*